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THE IOWA JOURNAL OF HISTORY AND POLITICS

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THE

IOWA JOURNAL

OF

HISTORY AND POLITICS

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IN THE UNIVERSITY OF IOWA

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CONTENTS

Number 1 — January 1913

The Spanish Land Grants of Upper Louisiana
Louis Pelzer 3

History of Congressional Elections in Iowa
Louis B. Schmidt 38

Captain James Allen's Dragoon Expedition from Fort Des Moines, Territory of Iowa, in 1844
Jacob Van der Zee 68

Some Publications 109
Americana — General and Miscellaneous 111
Western 118
Iowana 120

Historical Societies 127

Notes and Comment 138

Contributors 142

Number 2 — April 1913

Forward Movements in Politics Since the Civil War
Fred E. Haynes 147

History of the Codes of Iowa Law
IV — The Code of 1873 Clifford Powell 166

An Eminent Foreigner's Visit to the Dutch Colonies of Iowa in 1873 Translated by Jacob Van der Zee 221

The Capture of General Marmaduke by James Dunlavy an Iowa Private Cavalryman Thomas Julian Bryant 248

Captain Edwin V. Sumner's Dragoon Expedition in the Territory of Iowa in the Summer of 1845 258

Some Publications 268
Americana — General and Miscellaneous 271
Western 282
Iowana 284

Historical Societies 291

Notes and Comment 300

Contributors 302

Number 3 — July 1913

History Made by Plain Men — Louis Pelzer — 307
Episodes in the Early History of the Western Iowa Country — Jacob Van der Zee — 323
History of the Codes of Iowa Law
V — The Code of 1897 — Clifford Powell — 364
Some Publications — 444
Americana — General and Miscellaneous — 446
Western — 452
Iowana — 455
Historical Societies — 461
Notes and Comment — 471
Contributors — 474

Number 4 — October 1913

Some Hungarian Patriots in Iowa — Lillian May Wilson — 479
Old Fort Madison: Some Source Materials — 517
The Work of the Thirty-fifth General Assembly of Iowa — Frank Edward Horack — 546
Some Publications — 601
Americana — General and Miscellaneous — 603
Western — 612
Iowana — 614
Historical Societies — 620
Notes and Comment — 630
Contributors — 632
Index — 635

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Vol XI JANUARY 1913 No 1

CONTENTS

The Spanish Land Grants of Upper Louisiana LOUIS PELZER 3

History of Congressional Elections in Iowa LOUIS B. SCHMIDT 38

Captain James Allen's Dragoon Expedition from Fort Des Moines, Territory of Iowa, in 1844 JACOB VAN DER ZEE 68

Some Publications 109

Americana—General and Miscellaneous 111

Western 118

Iowana 120

Historical Societies 127

Notes and Comment 138

Contributors 142

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THE SPANISH LAND GRANTS OF UPPER LOUISIANA[1]

From the beginning of the American government Congress has been compelled to deal with at least five distinct groups of foreign land claims, beginning with those in the Old Northwest and followed by those in the Territory South of the Ohio, the Louisiana Purchase, Florida, and the territory acquired from Mexico.[2] In the thirty-four years of Spanish domination in Louisiana thousands of land grants were made, and migration and settlement were stimulated. With the purchase of the territory in 1803 the United States fell heir to the confusion of the Spanish grants — a condition which required more than a half century of legislation and administration and a vast amount of litigation.

THE SPANISH LAND POLICY

The "Recopilacion de las Leyes de los Reynos de las Indias" seems to be among the first documents relating to the royal trans-Atlantic domain of Spain. This set of ordinances issued by King Carlos II on May 18, 1682, contains elaborate provisions relating to the disposal of the public domain.[3] By the royal regulation of 1754 the whole power of originating and confirming grants was transferred to the officers of the colonies.[4] Another ordinance issued in about

[1] Under the Spanish government the boundary between Upper and Lower Louisiana was the east and west line running through Hope Encampment, nearly opposite the Chickasaw Bluffs.— Stoddard's *Sketches of Louisiana,* p. 205.

[2] Treat's *The National Land System, 1785–1820,* pp. 200, 201.

[3] *American State Papers, Public Lands,* Vol. V, pp. 536–638.

[4] *American State Papers, Public Lands,* Vol. V, pp. 655–657.

1768 by King Carlos III made the intendants the exclusive judges of the causes and questions that might arise "in the district of their provinces about the sale, composition, and grant of royal lands."

Not until August 18, 1769, did Spain under the iron hand of Governor Don Alexander O'Reilly assume possession of the province of Louisiana. Governor O'Reilly was diligent in investigating the need of special regulations concerning the public lands: a considerable number of forts were visited, the inhabitants were convened, and complaints and petitions were invited from the settlers relating to such subjects as surveys, grants, concessions, the extent of grants, mineral sites, salt springs, roads, and village pastures.[5]

Returning to New Orleans the Governor on February 18, 1770, published twelve regulations which may be said to be the first which exhibit the general intention and policy of Spain in relation to the disposition of the public domain in Louisiana. These regulations received the approval of King Carlos III on February 24, 1770.[6]

All grants were to be made in the name of the king by the governor-general of the province who was required to appoint a surveyor to fix the bounds of the grant in the presence of three other witnesses. These four persons were then to sign the survey, make three copies thereof, deposit one copy with the government, another with the governor-general, and the third with the grantee to be annexed to the titles of his grant.

To each newly arrived family was to be granted on the Mississippi a tract six or eight arpents in front by forty arpents in depth. This would give them the benefit of the

[5] Gayarré's *History of Louisiana,* Vol. III, pp. 32, 33.

[6] *American State Papers, Public Lands,* Vol. V, pp. 729, 730; *American State Papers, Miscellaneous,* Vol. I, pp. 376, 377.

cypress woods. The grantees were required to construct, within three years, ditches to drain the land and embankments to keep out the water. Roads had to be constructed and a certain amount cleared of timber. No tract could be sold or alienated until these conditions had been fulfilled and even then only upon the written permission of the governor-general. Cattle were to be allowed to run at large from November 11 to March 15 and after July 1, 1771, it was to be lawful for anyone to hunt and kill the strayed cattle as game.

Grave doubt has been expressed as to whether the land ordinances of Governor O'Reilly ever operated in Upper Louisiana. "These laws", declared Stoddard, "were never considered in any other light than as *general rules,* liable to exceptions when cases occurred to justify them. . . . Some of the commandants were stationed from three hundred to one thousand miles from the capital, and could not speedily communicate with the great officers of the crown."[7] It was further urged that the successors of O'Reilly were no more bound by his regulations than is one legislature by its successor.

Later, however, the Supreme Court of the United States declared that O'Reilly's regulations were intended for the general government of subordinate officers and not to control and limit the power of the person from whom they emanated. His successors, it was held, had become possessed with all the powers which had been vested in Governor O'Reilly and a concession granted by them was as valid as any granted by O'Reilly.[8] And in 1836 an attorney for the United States declared:—

[7] Stoddard's *Sketches of Louisiana,* pp. 249, 250. The author of this rather rare volume published in 1812 was Captain Amos Stoddard who took formal possession of Upper Louisiana on March 10, 1804. The volume contains seventeen chapters by an intelligent observer which describe the history, the government, the commerce, the religion, and the natural resources of the province.

[8] Delassus *vs.* The United States, 9 Peters 117, 135, (1835).

When we find the regulations of O'Reilly, ... in force in every other portion of Louisiana — when we find them constituting the only rules for making grants of land from the year 1770 until the transfer of the province to the United States — it is quite impossible to believe there was one insulated district within that province governed by different laws, and where those regulations did not prevail.[9]

For the first twenty-five years of the Spanish occupation in Upper Louisiana the land policy of Spain was chaotic and systemless. Tracts of land were frequently occupied and cultivated without any concession. Villages such as St. Louis, New Madrid, and Ste. Genevieve had their common fields in which each inhabitant who desired to do so owned and cultivated his separate lot. The villagers would in some places also be granted a commons which furnished a supply of fuel or in other cases pasturage for the cattle.[10]

Prior to 1770 several grants had already been made by French commandants of the region. In the three years beginning with 1770 sixty-four concessions had been made mostly to the French. These were surveyed by the order of the first commandant and comprised a total of 4800 arpents. Even as late as 1788 not more than 6400 arpents had been actually surveyed in the district of St. Louis. These facts indicate that the land problem had not yet become one of pressing importance in the province.[11]

Concessions were often made but the surveys for them oftener lagged and the actual confirmations were few. Throughout the first twenty-five years of the Spanish occupation it appears that no concessions exceeded a league square and that they were issued upon the condition of

[9] Argument of R. K. Call for the Commissioner of the General Land Office, E. A. Brown.— *American State Papers, Public Lands,* Vol. VIII, pp. 796, 797.

[10] Bird *vs.* Montgomery, 6 Missouri 510, 524, (1840).

[11] Stoddard's *Sketches of Louisiana,* p. 244.

settlement and with a direct view to their cultivation or the raising of cattle.[12]

Surveyors were few and expensive to the scattered settlers; the array of Spanish officials was not conducive to the quick dispatch of the public business, and the trip to New Orleans to secure the perfection of his title was too long, expensive and dangerous for the settler who for years had lived in undisturbed possession of his grant in New Madrid or in Cape Girardeau.[13]

Not until February 1795 was Antonio Soulard appointed as the first Surveyor General for the district of Upper Louisiana.[14] Deputies were appointed in the various districts, fees were regularly collected, and an office was opened for the registration of land titles. This is the beginning of a new era in the Spanish land policy and from this time on the administration of the royal domain is more rigid and systematic.

About this time the stream of migration to Upper Louisiana began to widen and to quicken. To counteract the danger from the English in Canada most liberal inducements were offered to the Americans, whose hostility to the English, it was believed, would bind them to the Spanish. The free and extensive grants, their fertility, and the prospect of mineral wealth soon drew thousands of Americans into the steady current of migration to Missouri.[15] The importance of the land policy in Upper Louisiana increased, of course, as the population of the province swelled.

Twenty-seven years after the formal occupation of Louisiana by the Spanish the Governor, Manual Gayoso de

12 *American State Papers, Public Lands,* Vol. VIII, p. 797.

13 Houck's *A History of Missouri,* Vol. II, pp. 219, 220; *American State Papers, Public Lands,* Vol. VIII, p. 21.

14 Stoddard's *Sketches of Louisiana,* p. 248.

15 Stoddard's *Sketches of Louisiana,* p. 249.

Lemos, issued (September 9, 1797) a set of supplemental instructions for the distribution of the royal domain.[16] New settlers, not farmers, unmarried, and not possessed of property could not solicit grants of land until after four years of actual residence; to artisans land could not be granted until after three years practice of their trade in the province unless the artisan married a farmer's daughter, in which case the grant could be issued after only two years. Such qualified settlers were to receive two hundred arpents of land and fifty additional arpents for every child brought into the province. Each negro slave entitled the settler to twenty arpents additional land, but the total area granted was not to exceed eight hundred arpents.

"No lands shall be granted to traders;" declares Governor Gayoso's eleventh ordinance, "as they live in towns they do not want them." The new settler was required to prove that both his property and his wife were lawful; he was to enter the lands within one year and by the end of the third year have ten arpents under actual cultivation. No land could be sold until he had produced three crops or at least a tenth of his possessions. And no lands could be inherited by a foreigner unless the heir should become a resident of the province.

Neither could debts contracted outside of the province be paid from the product of the grant until after five harvests should have been gathered. In case any settler should be ejected "for bad conduct" the grant was to revert to the king of Spain. And finally, it was required that grants be made so as not to leave vacant areas between grants. This was to insure less exposure to Indian dangers as well as to facilitate the administration of justice and police regulations.

These ordinances were followed by a set of long and

[16] *American State Papers, Public Lands,* Vol. V, pp. 730, 731.

detailed regulations and instructions for conceding lands as issued on July 17, 1799,[17] by Don Juan Ventura Morales, the Intendant at New Orleans. All concessions were to be given in the name of the king by the general Intendant of the province who was to order the survey for laying out the tract. Not until the title should be delivered should the act of transfer be considered complete. Squatters were required to give up their claim or show cause within six months for holding their estate. The clause relating to the forfeiture of lands not improved within three years in the case of any sales was repealed.

The fees for the surveyor were to be proportioned to the labor involved in the survey and to the financial ability of the owner of the grant; a record was to be kept of all grants in the financial office of the province; special regulations were enacted in the case of minors who held grants; the Indians were not to be disturbed but supported and protected; and as far as possible the Spanish language was to be used in describing concessions, surveys, and transfers.

"These land laws", declared a later observer, "were exclaimed against as extortionate and oppressive; extortionate, because they made it necessary for a concession to pass through four, and in some instances, seven offices, before a complete title could be procured, in which the fees exacted, in consequence of the studied ambiguity of the thirtieth article, frequently amounted to more than the value of the conceded lands; oppressive, not only because the settler was deprived of his original papers, but because the twenty second article declared all concessions void, unless forwarded for confirmation within six months after the publication of laws at the several posts. This was tantamount to a reunion of all the lands of settlers to the domain. Not one in fifty was able to transmit the evidences of his claim,

17 *American State Papers, Public Lands,* Vol. V, pp. 731–734.

and to defray the expenses of his title, within so short a period as six months. Besides, these laws reserved to the government the privileges of taxation, and nothing could render them more unpopular.''[18]

During this period the procedure for securing grants was rather simple, though too often the grantees were too careless to take all the steps necessary to secure a perfect title. Documentary evidence shows that those officers in charge of the civil and military branches of the government, such as commandants, lieutenant governors, intendants, surveyors, and others exercising sub-delegate powers, constituted the machinery for disposing of the royal domain in Upper Louisiana.[19]

Successive steps were the petition[20] of the settler, the recommendation by some commandant,[21] and the formal

[18] Stoddard's *Sketches of Louisiana,* pp. 252, 253.

[19] *American State Papers, Public Lands,* Vol. VIII, p. 21.

[20] The following represents an ordinary form of petition:

''Don Carlos Dehault Delassus, *Lieutenant Governor of Upper Louisiana, &c.:*

''Sir: Alexis Maurice, residing in this Upper Louisiana since several years, has the honor to represent to you that he would wish to establish himself therein: therefore he has recourse to the goodness of this government, praying that you would be pleased to grant him a tract of land of four hundred arpens in superficie, to be taken on the vacant lands of his Majesty, in the place which will appear more suitable to the interest of your petitioner, who presumes to expect this favor of your justice.

his
Alexis X Maurice''
mark

''St. Genevieve, *May* 5, 1800.''

[21] The commandant's recommendation upon this petition follows:

''We, the undersigned, captain, civil and military commandant of the post and district of New Bourbon of Illinois, do certify to Don Carlos Dehault Delassus, lieutenant governor of Upper Louisiana, that Mr. Alexis Maurice, who has presented the foregoing petition, is a very good man, an excellent mechanic and farmer, and worthy, under all points of view, to obtain from the government the concession of 400 arpens of land he asks for, in a vacant lot of the King's domain, and that he is able, with his means and cattle, to improve the same.

''Done in New Bourbon, 12th May, 1800.

Pre. Delassus De Luziere''

grant and order of survey,[22] which was, seemingly in the majority of cases, not followed up by the formal task of survey. To illustrate: André Chevalier from New Bourbon (on October 1, 1799) petitioned for a grant of 400 arpents, desiring "to make and improve a plantation" and "being the son of one of the most ancient inhabitants". This application though addressed to the Lieutenant-Governor (Don Carlos Dehault Delassus) was next taken to the commandant at New Bourbon (Pedro Delassus de Luziere). The commandant three days later declared that "the petitioner is worthy to obtain the concession he solicits for, as much on account of the length of time his family has been settled in the upper part of this colony, and their honesty, as also because he has no other profession to support himself but that of a farmer, which he has practiced with advantage since his youth."

Two weeks later the Lieutenant-Governor acting upon this commandant's endorsement granted to Chevalier and his heirs the lands requested, and ordered the surveyor, Don Antonio Soulard, to place the petitioner in possession and deliver to him a plat of the survey. In this case the survey, however, was never made.

Even now the grantee in order to perfect his title ac-

[22] From the Lieutenant-Governor there was next issued the following grant to the petitioner:

"ST. LOUIS OF ILLINOIS, *May* 24, 1800.

"In consequence of the information given by the captain of the post of New Bourbon, Don Pedro Delassus de Luziere, and it appearing to me that the petitioner has more than the means necessary to obtain the concession he solicits, I do grant to him and his heirs the land he solicits, provided it is not prejudicial to any person, and the surveyor Don Antonio Soulard, shall put the party interested in possession of the quantity of land he asks, in a vacant place of the royal domain; and this being executed, he shall make out a plat delivering the same to said party, together with his certificate, in order to serve him to obtain the concession and title in form from the intendant general, to whom alone belongs the distributing and granting all classes of lands of the royal domain.

CARLOS DEHAULT DELASSUS"

cording to the laws of the province would be required to journey to New Orleans where the Governor-General was to give the final sanction and form. This, however, was rarely done: money was scarce among the settlers; the great distance from Upper Louisiana to New Orleans and the expense of the journey were barriers; and finally Spain was indulgent to the ancient inhabitants of its province. Indeed, "the confidence and security which the ancient inhabitants of Upper Louisiana had in those incomplete titles, is strongly evidenced by the fact of so few being perfected, even among those who had been in possession under their grants from twenty to forty years previous to the change of government."[23]

"During the Spanish domination", says Houck, "there was an uninterrupted exercise of the power to grant lands by Lieutenant-Governors and sub-delegates, which was never challenged, disputed, or questioned during that period."[24] The public domain attracted Americans, vast numbers of whom joined the westward current of migration which soon overflowed into Upper Louisiana. Daniel Boone, forsaking the throngs of population in Kentucky secured (July 11, 1800) a claim of 1000 arpents upon the Femme Osage,[25] and represents a type of the American immigrants to Upper Louisiana.

Immense areas were granted by the Spanish for various purposes. Israel Dodge, lately from Kentucky, who had erected "establishments so useful to the public, such as mills, distilleries, and breweries", was granted a domain of 7056 arpents;[26] James Mackay was granted 30,000 arpents; great blocks of land were given as rewards for civil and

[23] *American State Papers, Public Lands,* Vol. VIII, p. 21.

[24] Houck's *A History of Missouri,* Vol. II, p. 217.

[25] *American State Papers, Public Lands,* Vol. II, p. 396.

[26] *American State Papers, Public Lands,* Vol. VIII, p. 49.

military services, for agricultural and stock-raising purposes, for the objects of exploiting timber, mineral wealth, or other natural resources.[27]

Concessions were either general or special in nature. In the case of the former the grantees were permitted to locate anywhere on the vacant lands of the public domain. This gave rise to the term "floating or running title". In the case of the special grants a definite locality or area with certain limits was designated. The former appears to have been the more common form of grant as it enabled the settler to select sites which were convenient and valuable.[28]

Distinct contrasts are yielded by placing the Spanish land policy alongside that of the early history of the United States. Indian land titles were more respected by Spain whose land hunger did not have a consuming effect upon the Indian possessions. The Indian trader was granted no lands and received scant encouragement from the authorities of Spain. Although grants were sometimes of immense extent the records do not show the existence of great land companies such as the Ohio Company at Marietta. Spanish settlements were individual rather than collective; speculation was discouraged both by law and in practice. It would seem, however, that if the policy of the United States re-

27 "St. Vrain, a brother of [Lieutenant-Governor] Delassus, was granted 10,000 arpens on a petition in which he says that he desired 'to secure to himself a competency which may in the future afford him an honorable existence,' and in 1799 secured an additional grant upon which to 'collect his family and keep it near him.' Richard Caulk, one of the early American settlers west of the Mississippi, was awarded 4,000 arpens 'in consideration of all his gratuitous services, that were often painful and onerous' to him, as commandant of the settlement of St. Andre, in the absence of the commandant Don Santiago Mackay. François Saucier, a descendant of one of the earliest pioneers of the Mississippi Valley, and founder of Portage des Sioux, received a grant of 600 arpens for each of his children,— thirteen in number — and 1,000 arpens for himself and wife, to reward him for his 'laborious task' as Commandant of Portage des Sioux, a position he filled, he says, 'without remuneration'."— Houck's *A History of Missouri,* Vol. II, 226, 227.

28 Stoddard's *Sketches of Louisiana,* pp. 245, 246.

garding location, surveys, and plats were to be described as systematic, that of Spain may be designated as chaotic.[29]

Unusual inducements were held out by Spain to settlers of all kinds. To secure their permanent location upon the soil, its cultivation, and the erection of mills, distilleries, and other permanent establishments were the purposes which prompted Spain to dispose of its royal domain in Upper Louisiana with a lavish hand.

Unlike the policy of the United States the lands were not looked upon by Spain as a source of revenue. "The liberality of the Spanish government in donating land to actual settlers", declares Houck, "stands in striking contrast with the illiberal policy of the United States at that period. The pioneer settling in the Spanish Dominions in upper Louisiana was not expected to pay for land on which he established a home. The hardship, the danger, the isolation from all the comforts of civilization seem to have been fully appreciated by the Spanish government. It was thought unjust, that in addition to opening a path in the wilderness and with untold perils and self sacrifice laying the foundation of civilized order, the settlers should also pay the government for the land so settled, or should even pay taxes on the same."[30]

Such a liberal policy undoubtedly accelerated migration

[29] "When Louisiana was transferred to the United States, very few titles to lands, in the upper part of that province especially, were complete. The practice seems to have prevailed for the deputy governor, sometimes the commandants of posts, to place individuals in possession of small tracts, and to protect that possession without further proceeding. Any intrusion on this possession produced a complaint to the immediate supervising officer of the district or post, who inquired into it, and adjusted the dispute. The people seem to have remained contented with this condition. The colonial government, for some time previous to the cession, appears to have been without funds, and to have been in the habit of remunerating services with land instead of money. Many of these concessions remained incomplete."— Soulard et al. *vs.* The United States, 4 Peters 511, 512 (1830).

[30] Quoted from Houck's *A History of Missouri*, Vol. II, p. 224.

to Louisiana and contributed to the Americanization of the province. These factors in turn helped to crystallize those conditions which secured the complete American sway over the Louisiana Purchase and thus inaugurated the policy of trans-Mississippi expansion.

THE ASCERTAINMENT AND ADJUSTMENT OF SPANISH LAND CLAIMS IN UPPER LOUISIANA 1804–1812[31]

A mass of unsettled land claims is one of the principal memorials to the United States of the thirty-four years of Spanish occupation of Upper Louisiana. Out of the unsettled conditions of titles petitions flowed to Congress, scores of Congressional acts were passed, boards of land commissioners made investigations and reports; while later both the Supreme Court of Missouri and that of the United States adjudicated large and extensive claims which dated back to the rule of Delassus, Trudeau, Soulard, and Carondelet.

Population had grown steadily in Upper Louisiana under the Spanish régime from about 1591 in 1785[32] to about 2093 in 1788,[33] to 6028 in 1799,[34] and to perhaps 11,000 in 1804.[35] Even before the actual transfer of Louisiana to the United States land values had risen high. "In fine," declared an observer, "the cession raised the general mass of property in Louisiana more than four hundred *per centum.*"[36] Great efforts were made to have all grants located and surveyed, and surveyors were everywhere in great demand.

[31] The District of Louisiana was created by the Congressional act of March 26, 1804, and comprised that part of the Louisiana Purchase north of parallel 33 degrees.

[32] Martin's *History of Louisiana,* p. 240; *American State Papers, Miscellaneous,* Vol. I, p. 391.

[33] Martin's *History of Louisiana,* p. 251.

[34] Gayarré's *History of Louisiana,* Vol. III, p. 406.

[35] Stoddard's *Sketches of Louisiana,* p. 226.

[36] Stoddard's *Sketches of Louisiana,* p. 266.

Rumors of fraud and speculation became current before the actual transfer of the province to the United States, and charges of enlarging grants, of making illegal surveys, of antedating grants, and the conniving of Spanish officials with American speculators reached the government. "You have no guess how the United States are imposed on by the Spanish officers, since they have heard of the cession of Louisiana:" reads one warning. "Grants are daily making for large tracts of land and dated back; some made to men who have been dead fifteen or twenty years, and transferred down to the present holders. These grants are made to Americans, with a reserve of interest to the officer who makes them; within fifteen days the following places have been granted, to wit: forty-five acres choice of the lead mines, sixty miles from this, heretofore reserved to the Crown of Spain; the iron mine on Wine creek, with ten thousand acres around it, about eighty miles from this place, and formerly reserved by the Crown of Spain; sixty thousand acres, the common touching St. Louis, heretofore given by the Crown of Spain to the inhabitants of the village; the tin mines, (though of doubtful value) and fifteen thousand acres adjoining; and many other grants of ten, fifteen, twenty, and thirty thousand acres have been made. I could name persons as well as places."[37]

Although the Louisiana treaty provided that the inhabitants should "be maintained and protected in the free enjoyment of their liberty, [and] property",[38] it became apparent at once that legislation was imperative to save the public domain from spoliation. Indeed, the first Congressional act (March 26, 1804)[39] respecting Louisiana

[37] From an anonymous letter to Albert Gallatin, dated Indiana Territory, Kaskaskias, October 18, 1803.— Printed in the *American State Papers, Public Lands,* Vol. I, p. 189.

[38] Article 3 of the treaty of cession.

[39] Shambaugh's *Documentary History of Iowa,* Vol. I, pp. 19–23.

contained several distinct clauses intended to cover the conflicting Spanish titles: no grants were to exceed a mile square, and those, the title to which reposed in the Crown of Spain at the time of the treaty of cession (April 30, 1803), were declared void. An exception was made in the case of those grants upon which a bona fide settlement according to the laws and usages of Spain had been made prior to December 20, 1803.[40]

The next Congressional act, approved on March 2, 1805,[41] provided for the confirmation of grants settled on or before October 1, 1800, in the case of settlers who at the time the grant emanated were twenty-one years of age and at the head of a family. Then, too, grants made prior to December 20, 1803, which were followed by actual cultivation and settlement were to be confirmed. But in no case were the areas to be over one square mile.

Another section of the act provided for the appointment of three commissioners who were empowered to examine the titles of all persons claiming lands under French and Spanish grants. Power was given them to administer oaths, examine witnesses, and to secure any and all evidences of claims to public lands. Their findings were to be reported to Congress for final determination by that body. No grant, however, made subsequent to October 1, 1800, was to be recognized, and all claims not presented to the Commissioners before March 1, 1806, were to be barred from consideration.

Objections to this law came from the Territory of Or-

[40] In the drafting of Congressional legislation upon the subject of the Spanish grants several dates are of prime importance and significance. These are (1) October 1, 1800, the date of the treaty of San Ildefonso whereby Louisiana was receded by Spain to France; (2) April 30, 1803, the date of the Louisiana Purchase Treaty; (3) December 20, 1803, the day on which the United States took formal possession of Louisiana at New Orleans.

[41] *Annals of Congress,* 2nd Session, 8th Congress (1804–1805), Appendix, pp. 1677–1682.

leans on November 14, 1805, and can apply almost equally well in the case of Upper Louisiana. The age requirement of twenty-one years was unjust. "Aged invalids are now the proprietors of tracts held under warrants granted to minors; and numerous families, at this moment, subsist upon the production of lands formerly granted to those who were then unmarried, and without families. Indeed, infancy, celibacy, or the want of a family, were never thought of as an objection to the emanation of patents under the French or Spanish governments."[42]

Injustice was also seen in the requirement of residence and cultivation prior to October 1, 1800: the Spanish government never resumed their grants on account of the non-performance of conditions, unless the party claiming had evinced some disposition to abandon the land, or to emigrate from the province. Then, too, in many instances where lands had long been settled, and conditions religiously fulfilled, the proprietor had settled upon some other tract acquired by purchase or by the bounty of the Spanish government. To refuse to confirm the first grant because of non-residence or non-cultivation, urged the petition, would be unjust.

President Jefferson now appointed the Board of Commissioners — John B. C. Lucas, James L. Donaldson, and Clement B. Penrose — who repaired to St. Louis where they began the tedious labor of summoning witnesses, collecting evidence, taking testimony, and examining plats and surveys.[43] To lessen the chances of impositions and *ex parte* depositions it was required at the beginning that testimony should be delivered *viva voce* before the board.

Improvement of the law of 1805 was attempted in the

[42] From the remonstrance of the House of Representatives of the Territory of Orleans to the House and Senate of the United States.— Printed in the *American State Papers, Public Lands,* Vol. I, pp. 250, 251.

[43] Houck's *A History of Missouri,* Vol. III, Chapter II, *passim.*

Congressional acts of February and April of the next year.[44] Claims could be filed after March 1, 1806, by parties where the tracts had not been surveyed by Spanish officials prior to December 20, 1803. Claims originating with minors were henceforth to be allowed, provided the grants had been held and cultivated for ten consecutive years prior to December 20, 1803. Confirmation was made also where the following conditions had been met: commencement of settlement prior to October 1, 1800, followed by inhabitation and cultivation for three years prior to December 20, 1803. Such conditions were to be considered as permission from Spain to settle even though the express permission could not be proved.

Three changes were made by the Congressional act of March 3, 1807:[45] the age requirement of twenty-one years was repealed; the titles to tracts of which the claimant had been in possession for ten consecutive years prior to December 20, 1803, were confirmed; and the time for filing claims was extended to July 1, 1808, and the Board of Commissioners was given full power to adjust the claims of persons who had been actual residents of Louisiana on December 20, 1803, except in the case of tracts exceeding a league square or containing salt or mineral springs.

A difficult task was before the Board of Commissioners as they continued their sessions at Ste. Genevieve, Cape Girardeau, and New Madrid. Feuds, lawlessness, contentions, and a greed for land prevailed in the region. Dissatisfaction arose and complaints upon the work of the commission flowed to Washington. Not a little difficulty was experienced in the attempt to collect and to reconcile the various land laws promulgated by Spain.[46]

[44] *United States Statutes at Large,* Vol. II, pp. 352, 353, 391.

[45] *Annals of Congress,* 2nd Session, 9th Congress (1806–1807), pp. 1283–1286.

[46] Houck's *A History of Missouri,* Vol. III, pp. 48, 49.

Fraudulent grants and ante-dated concessions in large numbers demanded the attention of the Board and it was upon the largest grants, of course, that the greatest cupidity of the speculators fell. Says Stoddard in describing the frauds in Upper Louisiana:

> Twenty six concessions exist, derived from the last lieutenant governor, each of which embraces a league square, or more, of land. Thirteen of them bear date in 1799, nine in 1800, two in 1801, one in 1802, and one in 1803. They comprise two hundred and seventy one thousand seven hundred and fifty two arpents. Of this quantity, one hundred and twenty one thousand four hundred and forty eight arpents, contained in twelve concessions, were regularly surveyed. The remainder, one hundred and fifty thousand three hundred and four arpents contained in fourteen concessions, were in the hands of the several claimants at the time the United States took possession of the country. Such a number of extensive concessions, mostly bearing date in 1799 and 1800, when a few only of this description are to be found of prior or subsequent dates, certainly furnishes good ground to suspect their legitimacy.[47]

News of the cession of Louisiana to France had increased the cunning of Spanish officials and the speculators. "Instructions were given to the various agents by the Governor, as well as to the several deputy surveyors, that grants and concessions be dated back to the year 1799, which was the general antedate, though some were dated further back, and that surveys thereof would be made of any tract from fifty to fifty thousand acres to any person who would apply, upon payment of one hundred dollars for five hundred acres, and so great was the thirst of speculation, when money could not be obtained, horses and other property was [*sic*] received in payment. . . . They proclaimed that their records were kept in such form that it would be utterly impossible for the United States to detect the fraud."[48]

[47] Stoddard's *Sketches of Louisiana,* p. 256.

[48] Letter in Houck's *A History of Missouri,* Vol. III, pp. 36, 37.

The methods of keeping the land records — so-called — are described by the same official as follows:

When a person applied for lands it was customary for the commandant of the district to give a written permission to settle, which, when sanctioned by the Governor, is called a concession. It has been usual for the Governor to sign his name to these concessions without looking at or reading the petition when presented by the surveyor-general. No record is made of this concession until the survey is actually made out, when the surveyor-general enters in a memorandum book a copy of the plat, day of the order of survey, and the time when the plat of the survey is given out and the papers are delivered to the applicant. This form was a plan adopted by the surveyor-general for his own convenience, but no direction has ever been given by the government requiring any record whatever to be made. These records, of course, are not official; it would appear therefore, that a concession made in 1804, which bears date 1799, when no survey has been made, would be of the same efficiency with those actually made in 1799 unless the fraud can be specially proven.

The report of the Board of Land Commissioners covers the operations of that body for about six years (from December, 1806 to December, 1812) and was communicated to the House of Representatives in April and December of 1812. The region embraced in its work was the Territory of Louisiana (later Missouri Territory) — that part of the Louisiana Purchase which lay north of the parallel 33 degrees, the present southern boundary of the State of Arkansas. The report, finally, consists of three parts: first, a classification of the claims before the Board; second, the minutes of the Board upon claims not granted; and third, a tabulated list of the claims allowed for which certificates were granted.[49]

Forty-nine groups of claims, which indicate the confusion and complexity enveloping the Spanish grants, were sub-

[49] This report is to be found in the *American State Papers, Public Lands,* Vol. II, pp. 377–379; 388–603.

mitted. "It is probable", said Commissioner Penrose, "the classification may not embrace all the species of claims, but will, I flatter myself, be sufficiently comprehensive to enable the Congress of the United States to pass some general law on the subject, which, I take the liberty to observe, would be of great importance to the *bona fide* claimants".[50]

Condensation of the above number of claims will give five sets — less clearly defined but more usable in describing them in general.[51] First, there were the claims derived from French and Spanish grants, dated prior to October 1, 1800, exceeding eight hundred arpents, but not exceeding one league square, and which have been either inhabited or cultivated prior to December 20, 1803, or which have been granted for the purpose of building mills, or for works of other public utility, where the terms expressed in the grant have been complied with.[52]

A second class were those originating from French and

[50] *American State Papers, Public Lands,* Vol. II, p. 377.

[51] *American State Papers, Public Lands,* Vol. II, p. 378.

[52] The minutes of the Board of Commissioners sitting on a claim of this class read as follows:

"JAMES MACKAY, claiming four thousand four hundred and sixty arpents of land, situate on Wild Horse creek, district of St. Louis; produces to the Board a concession from Zenon Trudeau, Lieutenant Governor, dated December 23d, 1797, conditioned for the building of a mill and establishing a farm; produces a plat of survey, dated 6th March, 1798, and certified 23d December, 1798.

"Testimony taken, October 27, 1808. James Calvin, sworn, says the claimant, about eight or nine years ago, built a cabin, and commenced building the dam for a mill on the tract claimed; says there was some cultivation.

"Aaron Calvin, sworn, says that, about eight or nine years ago, there was a crop raised on said land for claimant; and also there were crops raised on said land for claimant the two following years; about seven years ago, there was a field of about ten or eleven acres cleared, and rails cut to fence it; does not know whether it was enclosed or not, as witness left the neighborhood.

"October 2, 1811: Present, Lucas, Penrose, and Bates, commissioners. It is the opinion of a majority of the Board that this claim ought not to be confirmed; Clement B. Penrose, Commissioner, voting for a confirmation. Said majority declare, that if this claim had not exceeded eight hundred arpents, they would have voted for a confirmation."— *American State Papers, Public Lands,* Vol. II, p. 495.

Spanish grants, not exceeding eight hundred arpents in the case of grants for public services, for the construction of mills and distilleries, where the services were proved to have been performed or where the terms on which the grant was made have been complied with.

The third class constituted claims derived as in the former groups, not exceeding eight hundred arpents, where the claimant has had no other tract granted or confirmed, and which are not included in any connected plat or survey, or where further proof of the written evidence has not been required or which have not been declared fraudulent.

Class four constituted those claims which were either inhabited or cultivated prior to, or on the 20th of December, 1803, with or without permission. An illustration of this group may be found in the claim of Robert Spincer to seven hundred and fifty arpents in the district of St. Charles. A plat and a certificate of survey dated September 5, 1805, was filed for record on February 28, 1806. The testimony showed that since 1802 the land had been inhabited and cultivated by the claimant and that in 1803 he had a wife and one child. The opinion of the Board (December 13, 1809) was that the claim should not be granted.

The fifth group comprised nearly one-fourth in number of all the claims in the Territory of Louisiana. It included claims for villages, commons, common fields, and lands adjacent given to the inhabitants for cultivation, possessed prior to December 20, 1803. Such villages established before December 20, 1803, were St. Charles, Portage des Sioux, St. Louis, St. Ferdinand, Marais des Liards, Carondelet, Ste. Genevieve, New Bourbon, New Madrid, Little Prairie, and Arkansas.

"By the spirit of the [Spanish] ordinances," declared Commissioner Penrose,[53] "all these claims would have been

[53] *American State Papers, Public Lands,* Vol. II, p. 378.

granted, although not embraced by the strict letter of those ordinances. The Spanish government to gain a subject, would have given land; and agriculture being their object, everything which would have promoted it would have been done. Rewarding services with land was an easy manner of paying debts, where land was considered of so little value. . . . and as I presume the intention of our Government must be to do such justice to their newly acquired citizens as would have been done by that Government of whom they were purchased, there can be no hesitation in confirming or granting such claims as are comprehended in the five foregoing classes.''

Perhaps two thousand claims were examined by the Board which were not confirmed. The minutes show a large number of French names but very few Spanish, which fact further confirms the statement that during the entire period of Spanish domination the French rather than the Spanish held sway.[54] Such names as Villars, St. Vrain, and Vallé represent the prominent families in the early history of the quaint old French villages along the Mississippi.

American names exceed in number and show that the conquest of Louisiana was noiseless, bloodless, and unrelenting. Peaches and apples grew in the orchards planted by the American settlers; timber lands were cleared; sugar works were set up, and corn, potatoes, and vegetables cultivated. Salt springs were seized upon and the aggressive Americans improved upon the primitive French methods of mining and smelting lead. Mills, breweries, and distilleries were erected. Settlement, labor, property, and permanent homes — such were the successive steps in the Americanization of the province of Upper Louisiana.

Brief as they are, the staid minutes of the Board of Commissioners present interesting aspects of the frontier life

[54] Cf. Isidor Loeb in the *Missouri Historical Review,* Vol. I, pp. 53–71.

of this region. Hardships and dangers were encountered by these westerning Americans, and Indians not infrequently attacked the settlers and destroyed their homes. Considerable numbers of slaves were brought from Kentucky and the eastern States. John Vallet who had sought permission of Delassus to settle swore that the Governor told him "to take his plow and go on with his work, and nobody should disturb him." David Delauney testified that "he was not in the habit of ante dating"; another testified in favor of Francis Soucier who "is father of a family composed of himself, wife, and about fifteen children" and who was deserving of four hundred arpents for his service as commandant. And, in one concession (which later was not confirmed) the Board discovered "several erasures in the material parts of the petition in different colored ink."

Claims of immense extent passed in review before the Board. James Mackay's claim to 30,000 arpents was rejected in 1809; the next year Louis Lorimer's claim to 8000 arpents was disallowed, and in 1811 Julien Dubuque and Auguste Chouteau's title to 148,176 arpents opposite Prairie du Chien was voted to be not confirmed.[55]

Confirmations of titles for which the Commissioners issued certificates number 1342 and range from small lots to estates of 800 arpents. The first certificate issued bore date of December 8, 1808, and was in favor of David Musick for a tract of 400 arpents in the District of St. Louis. The last certificate issued January 15, 1812, went to Louis Brazeau and confirmed a grant of two hundred and seventy arpents also in the District of St. Louis.

The bases of the various claims were concessions, ten years' possession, actual settlement, and orders of survey. The first, of course, furnished the great majority of claims. And without exception the confirmations were confined to what is at present the Commonwealth of Missouri.

[55] *American State Papers, Public Lands,* Vol. II, pp. 394, 414, 451, 452.

Congressional confirmation of the claims allowed by the Board of Commissioners was made by the act of June 13, 1812.[56] "The same shall be confirmed," declares the fourth section, "in case it shall appear that the tract so claimed was inhabited by the claimant or some one for his use prior to the twentieth day of December, one thousand eight hundred and three as aforesaid, and cultivated in eight months thereafter, subject, however, to every other limitation and restriction prescribed by former laws in respect to such claims; and in all cases where it shall appear, by the said report, or other records of the board, that claims to land have not been confirmed merely on the ground that the claim was for a greater quantity than eight hundred arpens, French measure, every such claim, to the extent of eight hundred arpens, shall be confirmed."

Frederick Bates, the Recorder of Land Titles, reported the results of his investigations upon land titles in the Territory of Missouri. The first part[57] deals with the confirmation of village claims as provided for in the act of June 13, 1812. These villages were Portage des Sioux, St. Charles, St. Louis, St. Ferdinand, Village á Robert, Carondelet, Ste. Genevieve, New Madrid, New Bourbon, and Little Prairie.[58]

These tracts, varying in area from one arpent to lots of miniature size, were situated in or near the above villages. The claimants, descendants of the early French families, offered as bases for their claims, possession and inhabitation prior to 1803, orders of survey from Trudeau, and some of the provisional acts of Congress. Over five hundred such claims were confirmed.

A second part[59] of Recorder Bates's report dealt with

[56] *Annals of Congress,* 1st Session, 12th Congress, Appendix, pp. 2316–2319.

[57] *American State Papers, Public Lands,* Vol. III, pp. 314–326.

[58] *United States Statutes at Large,* Vol. II, pp. 748–752.

[59] *American State Papers. Public Lands,* Vol. III, pp. 327–331.

extensions made by virtue of section four of the act of March 3, 1813. That is, those persons who had claimed title to more than 640 acres but who had been granted less than that by the late Board of Commissioners were with few exceptions granted the 640 acres. To illustrate: Peter Rock had claimed 1056 arpents before the Board but had been granted only 450 arpents (certificate number 949). Recorder Bates extended the grant to 640 acres.

The third part[60] of Bates's report confirmed claims according to the provisions of the act of April 12, 1814. (See below p. 28). About four hundred titles were confirmed, among the owners of which we find such names as Auguste Chouteau, Antoine Soulard, and Nathan Boone, the son of Daniel Boone.

A fourth section[61] of the Recorder's report gives the confirmations made under Congressional acts from June 13, 1812 to April 12, 1814. Nearly five hundred claims in this group were confirmed. In the great majority of cases the area claimed was larger than that granted — the latter usually being 640 acres.

Another group of claims, constituting perhaps 450 in number, were rejected by the recorder. Still another group of claims numbering 312 was that of William Russell. Of these but twenty-three were confirmed by the Recorder.[62]

Relaxation in favor of land claimants of every description, which had been a uniform policy since 1804, continued until the year 1816. "This relaxation", wrote Secretary of the Treasury Crawford, "has generally been effected by comprehending descriptions of cases not recognized by previous acts; by extending the time within which notices of claims, and production of evidence were required, and by

60 *American State Papers, Public Lands,* Vol. III, pp. 332–344.

61 *American State Papers, Public Lands,* Vol. III, pp. 344–357.

62 *American State Papers, Public Lands,* Vol. III, pp. 358–365.

giving authority, not only to decide upon such claims, but to revise and confirm such as had been previously rejected."[63]

By various acts the time for filing claims not then filed or adjusted and evidence thereon was extended to December 1, 1813; then to January 1, 1814; the powers and duties of the former Board of Commissioners were transferred to the Recorder of Land Titles, who was to report the results of his examination to the Commissioner of the General Land Office. Beneficiaries of former acts who had claimed 640 acres or more, but who had been granted less were allowed an entire section by the act of March 3, 1813.[64]

Congress, impatient and hopeful, perhaps, of making a final settlement of these persistent claims passed a law in April, 1814, entitled "An Act for the final adjustment of land titles in the State of Louisiana and Territory of Missouri."[65] This confirmed titles in Missouri Territory in the following classes:

(1) Grants made by a French or Spanish concession, warrant, or order of survey prior to December 20, 1803, provided the claimant was a resident of Louisiana at the time of the concession.

(2) Grants made under the above conditions in the Territory of Missouri prior to March 10, 1804.[66]

(3) Grants which had formerly been denied because they were not inhabited prior to December 20, 1803.

Congressional confirmation of the action of Recorder

[63] From a letter to Henry Clay, Speaker of the House of Representatives, dated December 7, 1818, and printed in the *American State Papers, Public Lands,* Vol. III, pp. 392, 393.

[64] *United States Statutes at Large,* Vol. II, pp. 812–815.

[65] *United States Statutes at Large,* Vol. III, pp. 121, 123; *Annals of Congress,* First and Second Sessions, 13th Congress, Appendix, pp. 2823–2825.

[66] This is the date on which Captain Amos Stoddard took formal possession of the province of Upper Louisiana at St. Louis.— Stoddard's *Sketches of Louisiana,* p. 102.

Bates was made in the act approved April 29, 1816.[67] This law may be considered as closing the history of the efforts to settle by Congressional legislation the confusion of the grants dating back to the period of Spanish domination.

ADJUSTMENT OF SPANISH LAND CLAIMS IN MISSOURI 1816–1874

Seemingly dormant the Spanish claims remaining unsettled were not in a state of feeble inactivity in the years from 1816 to 1824. Memorials and petitions relative to land claims came to Congress from the Territory of Missouri as well as from the State of Louisiana; the heirs of grantees had become numerous, often wealthy and influential, and persistent; and talented and highly paid attorneys pressed their claims: these factors caused the question to be reopened in Congress.

Fifteen sections are included in the rather complicated act of Congress which was approved May 26, 1824, and entitled "An Act enabling the claimants to lands within the limits of the State of Missouri and Territory of Arkansas to institute proceedings to try the validity of their claims."[68] Suits could be instituted in the United States District Courts for these jurisdictions, in the case of claims arising from concessions, grants, warrants, or orders of survey which had been legally made by Spain prior to March 10, 1804.

Any evidence formerly collected by the Board of Commissioners could be used for or against the United States when the author of the testimony was dead or beyond the reach of the court's process. Any claim to lands which was not brought before the court within two years was to be forever barred from prosecution. In every case where the decision was against the United States and in excess of 1000 acres the Attorney-General was privileged to appeal

67 *United States Statutes at Large,* Vol. III, pp. 328, 329.

68 *United States Statutes at Large,* Vol. IV, pp. 52–56.

to the Supreme Court. Likewise the claimant could perfect his appeal within one year. In the event of a favorable decision the claimant could demand a decree, which, when presented to the land office, would entitle him to a tract equal in area to that named in the court's decree.

Two years later (May 24, 1828) the time for the filing of petitions to test the validity of claims was extended two years. Likewise there was repealed the clause which required the payment of the costs of the suit when the decision was adverse to the claimant. Both these provisions indicate a generous policy on the part of the general government.[69]

An urgent memorial from the legislature of Missouri was sent to the Senate in February, 1831, in which the recreation of a board of land commissioners was recommended.[70] Twenty-eight years had passed since the Louisiana treaty and "yet to this hour claims to an immense amount remain undecided." Claimants with just rights should have their claims adjudicated and pretenses to titles should be silenced so that lands could be brought into the market for public sale.

"The unconfirmed claims in this State which are reserved from sale", continued the memorial, "amount to millions of acres; they lie scattered over the State in unequal proportions, some counties having none in them, whilst others are greatly overspread by them; they generally lie in large bodies, and frequently embrace the best land in the county. The evil which they cause to our citizens and to the State, by preventing continuous settlements, and the erection of mills, &c., upon their streams, and by withholding land from cultivation, by interruptions in the roads, by not being subject to taxation, and in a variety of other ways, is too manifest to need recapitulation."

[69] *United States Statutes at Large,* Vol. IV, p. 298.

[70] Printed in *American State Papers, Public Lands,* Vol. VI, p. 300.

Another law, approved on July 9, 1832, was "An Act for the final adjustment of private land claims in Missouri".[71] This provided for another commission to consist of the Recorder of Land Titles in Missouri and two commissioners to be appointed by the president. The commission was to examine and then to report upon two claims: first, those which in the opinion of that body should be granted, and second, those which should be regarded as destitute of merit. The examination was to be completed in two years and the report thereof submitted to Congress for final determination by that body.

President Jackson appointed as Commissioners A. G. Harrison and Lewis F. Linn who with Recorder F. H. Martin constituted the first Board. Later the Board was made up of James H. Relfe, F. R. Conway, and F. H. Martin. These bodies were to examine and classify all the unconfirmed claims in the office of the Recorder at St. Louis.

The report of the first Board bore date of November 27, 1833, and confirmed one hundred and forty-two claims.[72] The Board eulogized the policies of the French and Spanish governments, mentioned the hardships and dangers the settlers had overcome, and urged a liberal policy on the part of Congress. "In recommending the claims of these people, now presented to your notice, we do it on the grounds of their merit, the various laws, usages, customs, and practice of the different Governments under which they originated, and, in our opinion, the great and immutable principles of justice."

Ninety claims numbering from 256 to 345 were included in the first report[73] of the second Board and recommended for confirmation. The minutes as presented in the official

71 *United States Statutes at Large,* Vol. IV, pp. 565-567.

72 *Executive Documents,* 1st Session, 23rd Congress, Vol. II, Doc. No. 79.

73 *American State Papers, Public Lands,* Vol. VIII, pp. 20–112.

documents show that there were long and protracted sittings at which petitions, concessions, and surveys were examined. The evidence submitted at the sessions of other Boards of Commissioners at Ste. Genevieve, St. Louis and elsewhere was reintroduced in many cases.

Among the large claims conferred was that of Israel Dodge for 7056 arpents which was confirmed on June 13, 1835. Another of 2000 arpents claimed by John P. Cabanne was confirmed two days later. In all cases the Board prepared a table showing the name of the original claimant, the size of the claim, its nature and date, the name of the grantor, and the facts concerning the survey.

The second class of claims, numbered from 1 to 152, were disallowed by the Board.[74] The claims of Jacques Clamorgan, a land speculator, explorer, fur trader, and merchant, aggregated over 1,000,000 arpents along the Mississippi River and were based upon exploring expeditions made and upon other public services. The Board after long and exhaustive investigation decided against these claims. Congressional confirmation of the action of the Board was completed on July 4, 1836.[75]

Meanwhile the heirs of former claimants had instituted proceedings in the courts to try the validity of their claims according to the act of May 26, 1824. These cases represent a large amount of litigation extending over many years and form the last chapter in the history of the Spanish land grants.

One of the earliest cases of this class to come before the Missouri court and the first to reach the Supreme Court of the United States was that of Antoine Soulard's Heirs *vs.* The United States.[76] The facts of this case as presented to

[74] *American State Papers, Public Lands,* Vol. VIII, pp. 113–243.

[75] *United States Statutes at Large,* Vol. V, pp. 126, 127.

[76] 4 Peters 511; the title of this case was Julie Soulard, Widow, and others, Appellants *vs.* The United States.

the Missouri court in November, 1824 are as follows: Antoine Soulard on April 26, 1796, was granted 10,000 arpents of land by Lieutenant-Governor Don Zenon Trudeau. This tract was to be located on any vacant lot of the royal domain. On the 20th of February, 1804, the grant was located and surveyed on the Cuivre River; on March 8, 1804, the survey was duly certified and recorded in the Surveyor-General's office. On March 2, 1805, the commission and certificate of survey were accidentally destroyed by fire. The petitioners, omitting to file their claims, were deprived of the benefits of the provisional laws of Congress. Of the said tract 1947.35 acres had been sold and the balance was not claimed by any other than the petitioner. Suit was therefore brought in the United States Court for Missouri to adjudicate the claim.

This court decided against the plaintiff, holding that the regulations of O'Reilly, Morales, and Gayoso showed the general intention and policy of Spain. Furthermore the ordinances excluded every reasonable supposition of the existence of any law, custom or usage, under which the alleged concession might have been perfected into a complete title, if Louisiana had not been transferred to the United States. These regulations, declared the court, could not be reconciled with the legality of the concession.

Brilliant legal talent appeared as counsel when the case came up for hearing in the Supreme Court. Thomas H. Benton was retained for the claimants and Attorney-General William Wirt appeared for the United States. Chief Justice Marshall's decision announced simply that the case would be taken under advisement. After deliberate attention and study, declared the court, it felt unable to render a decision, and the court felt the necessity of collecting and studying at greater length the land laws and ordinances of Spain.

Five years later (January term, 1835) the case was given a second hearing in which the testimony and the argument was long and exhaustive. The decision of the lower court was reversed and in delivering the opinion of the court Mr. Justice Henry Baldwin declared: "We are therefore of opinion, that the claim of the petitioners to the land described in the petition is a good and valid title thereto by the law of nations, the laws, usages and customs of Spain. . . . and that it ought to be confirmed to the petitioners agreeably to the prayer of their petition."[77]

Another case which had a similar course was that of John Smith T. *vs.* The United States.[78] This also had been decided in the Missouri court, appealed to the Supreme Court in 1830, taken under advisement, and decided in 1836. Both courts held this claim invalid because the tract had been located by private rather than by public survey. "Spain never permitted individuals to locate their grants by mere private survey" declared the Court. And it was held that Congress did not contemplate the submission of claims to the court unless the several steps in the transfer were in accordance with the laws and usages of Spain.

Prior to the handing down of these decisions by the Supreme Court two other claims were adjudicated. In the case of Charles Dehault Delassus *vs.* The United States the following facts appeared:[79] By a special order from the Governor-General (De Carondelet) the Lieutenant-Governor of Upper Louisiana made a grant of 7056 arpents to Delassus on April 1, 1795. The survey was delayed and not made until December 14, 1799.

The objection was set up that the Governor-General (Baron de Carondelet) had exceeded his powers and that

[77] 10 Peters 100.

[78] 10 Peters 326.

[79] 9 Peters 117, (January, 1835.)

his grant was invalid. The court, however, in confirming the grant declared that since 1774 the power of granting lands had been revested in the civil and military officers of the provinces who retained it until 1798. These officers became possessed of all the powers held by Governor O'Reilly, the grant was considered within the authority of the Governor-General, and the decree of the lower court was affirmed.

At the same term the Court confirmed a grant of 1281 arpents in the case of Chouteau's Heirs *vs.* The United States.[80] In stating the distinction between these two cases Chief Justice Marshall said: "The concession to Delassus was made by the lieutenant governor of upper Louisiana by direction of the governor-general, at a time when the power of granting land was vested in the governors of provinces. This power was transferred to the intendant-general in 1799, after which transfer in 1800, the order of survey under which Chouteau claimed, was made by the lieutenant governor. The validity of the order depends upon the authority of the lieutenant-governor to make it. Chouteau alleges in support of this authority, that the lieutenant-governor was also sub-delegate, in which character he was empowered to grant incomplete titles."

Still another case[81] dealt with the validity of the regulations of O'Reilly in Upper Louisiana. In confirming a grant of 7056 arpents to Auguste Chouteau's heirs it was held that the ninth regulation of O'Reilly requiring the ownership of "one hundred head of tame cattle, some horses and sheep, and two slaves to look after them" was not applicable to Upper Louisiana. The court also believed that O'Reilly's regulations did not inhibit the confirmation of tracts exceeding a league square. "The words of the

[80] 9 Peters 137, (January, 1835).

[81] Chouteau's Heirs *vs.* The United States; 9 Peters 147, (January, 1835).

regulation do not forbid different grants to the same person; and so far as the court are informed, have never been so construed."

Meanwhile claimants of French and Spanish grants had passed away, but their heirs were persistent in urging these claims — claims which had originated during the foreign domination of Louisiana or from the mass of Congressional legislation. Henceforth legislation by Congress upon these claims is somewhat spasmodic but generally is intended to make a final adjustment of a vexed problem dating back over fifty years.

When the law entitled "An Act for the final Adjustment of Private Land Claims in the States of Florida, Louisiana, and Missouri, and for other Purposes" was approved on June 22, 1860,[82] its twelve sections sounded a note of finality — a note, however, which was to be resounded within the next decade.

Another commission was constituted by this law from the recorder of land titles in the city of St. Louis and the Registers and Receivers of the land offices for Louisiana and Florida. This commission was to transmit to the Commissioner of the General Land Office a detailed report of its operations.

The law conferred upon them power to receive only such claims as were based upon *written* grants, and consequently prohibited consideration upon any interest founded merely on ancient settlement, when the same was not accompanied by a paper title from the former government.

Claims were to be presented within five years. The commission was directed to report three classes of claims: first, those emanating from France or Spain which were cultivated for twenty years prior to the filing of the claim, second, those emanating from France or Spain but not oc-

[82] *United States Statutes at Large,* Vol. XII, pp. 85–88.

cupied and cultivated, thirdly, those which in the opinion of the commissioners ought to be rejected because founded on fraud, uncertainty of proof, vagueness of description, etc. The first two groups were to be reported to Congress for action, but in the third class the Commissioner of the General Land Office was to give the final word in the case of claims not confirmed by the commissioners.

This law after being extended for three years by the act of Congress of March 2, 1867, was revised, amended, and extended for three years longer by the act of June 10, 1872. These acts warranted the Commissioners in receiving and acting not only upon the claims which originated under the former governments while the authorities exercised the granting power *de jure* (before the cession) but also allowed claims to be received which were made by the Spanish authorities while they were in actual occupancy of territory as the government *de facto*.

Private claims in the city of St. Louis had been finally adjusted in the Congressional act of June 12, 1866,[83] and as late as February 14, 1874, Congress confirmed a grant of 7153.32 arpents in favor of the heirs of Moses Austin. Two years later the legal representatives of James Clamorgan, J. Babtiste, and of others, were urging claims of thousands of acres before Congress. "The claims, aggregating many thousands, which have been reported by the various boards of commissioners, and confirmed by Congress from time to time, might be properly termed cases in the General Land Office for action, although in numerous instances the papers constituting the bases of patents are not on file there."[84]

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[83] *Congressional Globe,* 1st Session, 39th Congress, Appendix, pp. 327, 328.

[84] Donaldson's *The Public Domain,* p. 376.

HISTORY OF CONGRESSIONAL ELECTIONS IN IOWA

THE ELECTION OF 1848

In proceeding with the history of congressional elections in Iowa,[1] three facts should be noted: (1) the General Assembly of Iowa had, in accordance with the act of Congress of June 25, 1842, requiring the States to elect Representatives by districts, divided the State into two congressional districts; (2) the General Assembly of Iowa had fulfilled the requirements imposed upon the State legislatures by the Constitution of the United States by prescribing the times, the places, and the manner of holding congressional elections; (3) Representatives are regularly chosen in the year preceding the assembling of the Congress in which they take their seats.

It will be remembered that the Congressmen elected in 1846 were chosen for the second session of the Twenty-ninth Congress which expired on March 4, 1847, and that the congressional election of 1847 was held for the selection of Congressmen to represent Iowa in the Thirtieth Congress which convened the following December. In the normal course of events, however, the Representatives elected in 1847 would have been chosen in 1846. But this would have necessitated the election of two sets of Congressmen in the same year: one to represent Iowa in the second session of the Twenty-ninth Congress and the other to represent the State in the Thirtieth Congress. The

[1] For an account of congressional elections in Iowa prior to 1848 see the writer's article in THE IOWA JOURNAL OF HISTORY AND POLITICS, Vol. X, pp. 463–502.

election of 1847 avoided two simultaneous elections. The terms of the Congressmen elected in 1847 expired on March 4, 1849. The congressional election of 1848 was therefore held in accordance with the rule which has prevailed in all of the States down to the present time of electing Congressmen in the even years — that is, in the year preceding the assembling of the Congress in which the Representatives elect are to take their seats.

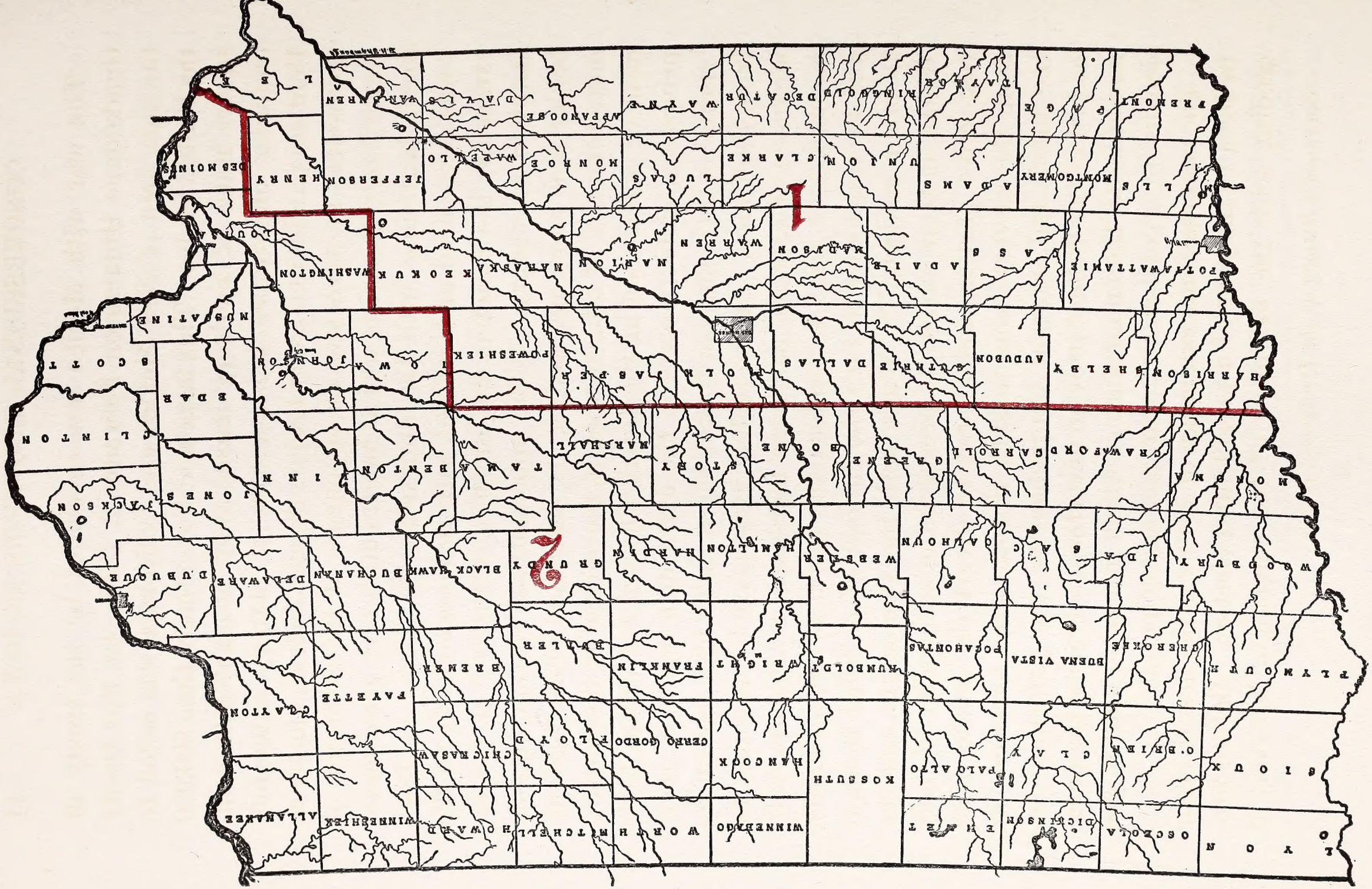
On January 24, 1848, the General Assembly of Iowa in extra session passed an act altering the boundary line between the First and Second Congressional districts. It provided that the act of February 22, 1847, dividing the State into two districts, be "so amended, that the county of Poweshiek shall be attached to, and made a part of the first Congressional District, instead of the second, as provided for by said act."[2] The reasons for this transfer are not clear. It could not have been made to equalize the population of the two districts for the reason that the inhabitants of the First District outnumbered those of the Second District by several thousand, as shown by the census returns of 1847, 1848, and 1849.[3] Nor could the transfer have been made for political reasons. The election returns do, indeed, indicate a decreasing Democratic majority in the First District and an increasing Democratic majority in the Second District. But the small Whig majority of five in Poweshiek County in the election of 1848[4] was not sufficient to make any material difference in the political strength of the two districts. "The chief merit of the law seems to have been that it tended to straighten the dividing line and so make the form of the districts more regular."[5] (See Map.)

[2] *Laws of Iowa,* Extra Session, 1848, pp. 34, 35.

[3] Hull's *Historical and Comparative Census,* pp. 196, 198.

[4] Election returns as found in the Archives in Des Moines.

[5] Peirce's *Congressional Districting in Iowa* in THE IOWA JOURNAL OF HISTORY AND POLITICS, Vol. I, pp. 337, 338.


1
2
MONONA
CRAWFORD
CARROLL
GREENE
BOONE
STORY
MARSHALL
TAMA
BENTON
LINN
JONES
JACKSON
CLINTON
SCOTT
MUSCATINE
LOUISA
DES MOINES
HENRY
JEFFERSON
WAPELLO
MONROE
LUCAS
CLARKE
UNION
ADAMS
MONTGOMERY
PAGE
FREMONT
MILLS
POTTAWATTAMIE
CASS
ADAIR
MADISON
WARREN
MARION
KEOKUK
WASHINGTON
JOHNSON
IOWA
POWESHIEK
JASPER
POLK
DALLAS
GUTHRIE
AUDUBON
SHELBY
HARRISON
DECATUR
WAYNE
APPANOOSE
DAVIS
VAN BUREN
LEE
HANCOCK
WINNEBAGO
WORTH
MITCHELL
HOWARD
WINNESHIEK
ALLAMAKEE
CERRO GORDO
FLOYD
CHICKASAW
FRANKLIN
BUTLER
BREMER
BUCHANAN
DELAWARE
DUBUQUE
BLACK HAWK
GRUNDY
HARDIN
WEBSTER
HAMILTON
KOSSUTH
PALO ALTO
EMMET
DICKINSON
OSCEOLA
CLAY
O'BRIEN
SIOUX
LYON
WOODBURY
IDA
SAC
CALHOUN
HUMBOLDT
WRIGHT
PALO ALTO
POCAHONTAS
BUENA VISTA
CHEROKEE
PLYMOUTH

The war with Mexico was concluded by the treaty of Guadaloupe Hidalgo on February 2, 1848. By this treaty the vast area of New Mexico and California was ceded to the United States. This large addition of more than 500,000 square miles of territory immediately brought into commanding importance the question of slavery extension. Political parties and party leaders did not, indeed, announce themselves as advocates or opponents of the extension of slavery until the crisis was at hand; but "every great measure", beginning with the annexation of Texas in 1845, "was considered and decided with reference chiefly to the extension, the maintenance, or the overthrow" of the institution of slavery. "The opponents of slavery became bolder and more aggressive; its defenders more vigilant, more resentful of attacks upon it, more rigid in their ostracism of public men at the North who did not accept their principles, more resolute in the event of a denial of their 'rights' in their purpose to seek those rights by a separation from the Union. As the feeling grew more intense and the language of extreme partisans increased in violence, well-meaning men tried to prolong the peace by compromises and by endeavors to turn the current of political thought to other subjects."[6] While both the Democrats and the Whigs, in their anxiety to preserve the nationality of their respective parties, endeavored to divert the public mind from the slavery issue to such time-honored questions as the tariff and internal improvements, the principle embodied in the Wilmot proviso nevertheless became the paramount issue, the importance of which increased until it was decided by secession, civil war, and emancipation.

The congressional campaign of 1848 was the first to occur in Iowa in the year of a presidential election. Before proceeding with the narrative of the campaign, however, it

[6] Stanwood's *History of the Presidency*, p. 226.

should be pointed out that three important considerations should be kept in mind in the study of congressional elections occurring in presidential years: (1) the two contests are almost synchronous[7]— both occurring at the same time; (2) both are dominated largely by the same political issues; (3) they have to do with determining the complexion of coordinate branches of the national government: the legislative and the administrative. It is obvious, therefore, that it is difficult, if not impossible, to disconnect entirely the two contests and that a discussion of the one involves in part also a consideration of the other. Nevertheless, congressional elections in Iowa constitute the theme of this dis-

[7] While the time, the places, and the manner of holding congressional elections are determined by the various States, the time of holding presidential elections is determined by the United States Congress. Prior to 1792 no regulation was prescribed, but in that year Congress passed an act providing that "electors shall be appointed in each State for the election of a President and Vice-President of the United States, within thirty-four days preceding the first Wednesday in December, 1792, and within thirty-four days preceding the first Wednesday in December in every fourth year succeeding the last election". This law was finally superseded by the act of Congress of 1845, which is still in force, providing "That the electors for President and Vice-President shall be appointed in each State on the Tuesday next after the first Monday in the month of November of the year in which they are to be appointed."— See Stanwood's *History of the Presidency,* pp. 36, 242.

The General Assembly of Iowa, on the other hand, had, by the Act of January 24, 1848, provided that Representatives to Congress should be elected "at the general election in the year one thousand eight hundred and forty-eight, and every two years thereafter." The Constitution of 1846 provided that the general election should be held on the first Monday in August. Iowa Congressmen were, therefore, under this Constitution chosen in August. The Constitution of 1857 changed the date of the general election to "the second Tuesday in October, except the years of the presidential election, when the election shall be on the Tuesday next after the first Monday in November". The law of January 24, 1848, remaining in force under this Constitution the date of the election of Congressmen was changed accordingly. In 1884 an amendment to the Constitution of 1857 was adopted providing that the general election shall be held uniformly in November. It will be observed, therefore, that congressional and presidential elections in Iowa have been held on the same date since 1857.— See the Constitutions of Iowa of 1846 and 1857, on the subject of general elections.

cussion and so the features of the presidential campaign will be referred to only in so far as they affected the congressional campaign.

Preparations for the nomination of candidates for Congress began early. On February 9, 1848, *The Iowa Standard* advised the Whigs "that not a day should be lost in taking the preliminary steps to open the campaign. Our candidates for Congress should be upon the stump by the first day of May. . . . The whigs have in many counties a majority against them to overcome, and they should have ample time to endeavor to do it, by reason, argument and the dissemination of whig principles. The candidates for Congress will have heavy duties to perform, if they visit every neighborhood in their respective districts, which they should do, if they wish faithfully to discharge their duty to the whigs of the State. We are therefore in favor of immediate action in every county in the State."[8]

But comparatively little interest was taken in the coming congressional election until April, for two reasons: (1) it was too early to inaugurate the congressional campaign; and (2) the public mind was occupied with James Harlan's spirited contest for the office of Superintendent of Public Instruction.

The Whigs of the First District were the first to become active in the campaign for the election of Congressmen. On April 20th, the Whig Congressional Committee of that district issued a call for a convention to meet at Fairfield on May 17th for the purpose of nominating a candidate for Congress to represent the First District. The basis of representation in the convention was to be "two delegates for each Senator and Representative, in each county or

8 *The Iowa Standard* (Iowa City), New Series, Vol. II, No. 25, February 9, 1848.

district.'' The call was signed by Arthur Bridgman, C. W. Slagle, and George W. Wright.[9]

The convention met accordingly. A temporary organization was effected by the appointment of Daniel E. Brainard of Van Buren County as chairman, and Richard Irwin of Jefferson County as secretary. Resolutions were passed directing the chairman to appoint committees on credentials and on permanent organization. The committees being duly appointed, the convention adjourned until afternoon.

The convention met pursuant to adjournment and the committee on permanent organization presented the following report: President, George Wilson of Wapello County; Vice Presidents, Col. W. M. Stewart of Lee County and A. L. Nichols of Mahaska County; Secretaries, C. Baldwin of Jefferson County and George W. Garnes of Van Buren County. The report was adopted unanimously and the permanent officers of the convention took their respective places.

The report of the committee on credentials being adopted, the convention proceeded to ballot on a congressional nominee. George G. Wright of Van Buren County and Daniel F. Miller of Lee County were presented as the candidates for the nomination. While the convention was balloting on a candidate for Congress, the Van Buren delegation withdrew and after consultation returned to the convention and through J. B. Howell asked leave to withdraw the name of George G. Wright from the consideration of the convention. Leave was granted, whereupon Daniel F. Miller was nominated by acclamation as the Whig candidate for Congress from the First District.

The committee on resolutions which was now appointed by the president of the convention consisted of the following members: W. H. Wallace of Henry County, C. W. Slagle of

[9] *Keokuk Register,* Vol. I, No. 48, April 20, 1848.

Jefferson County, and J. B. Howell of Van Buren County. Mr. Miller thanked the convention for his nomination and made a few remarks on "general politics". While the committee on resolutions was drafting the platform, speeches were made by Viele of Lee, Street of Wapello, Jay of Henry, and Shelladay of Mahaska. The resolutions prepared by the committee were then presented to the convention and adopted unanimously by that body as the platform of the Whig party in the First District.

The platform, consisting of a preamble and eight resolutions, arraigned the administration of James K. Polk and extolled the principles of the Whig party, but carefully avoided any reference to the slavery issue. It condemned "the misrule of the party in power", commended the Whig party as a worthy descendant of "that great party, who in revolutionary days bid defiance to the British Crown", and emphasized the leading principle of this party to be "opposition to executive power and unconstitutional prerogative." James K. Polk was denounced for "basely bowing the knee to the power of England on the Oregon controversy" and for "the creation of an unnecessary war with Mexico". These considerations, including Polk's "opposition to the improvement of our Western Harbours and rivers", continued one resolution, "leave us without confidence in either his ability or his honesty and require that the administration of the Government should be entrusted to abler hands."

The platform also accused "the leaders of the Locofoco party in Iowa" with having "universally sacrificed the interests and the welfare of the people to their own selfish aggrandizement" and argued "that a continuance of such men in office, will only tend to increase the burdens of taxation and involve the people in still deeper difficulties than those already surrounding them."

Another resolution pledged the support of the Whig party in the respective counties to the nominee of this convention and also to the nominees of the Whig National Convention. Finally, the action of the State Convention held at Iowa City on May 11th was endorsed with the observation "that the energy and unanimity of the whig party affords us cheering hopes of approaching victory."[10]

The nomination of Daniel F. Miller for Congress by the Whigs of the First District was commended enthusiastically by the leading Whig journals. *The Bloomington Herald* observed that "Mr. Miller is an old resident of the State and is well versed in the crooks which locofocoism takes to deceive the real Democracy of the country. He will give the spoils party trouble before he gets through with them."[11] *The Iowa Standard* remarked: "We have every reason to believe that the nomination of Daniel F. Miller was the most judicious that could have been made. He is one of the early settlers in Iowa, is a Lawyer of acknowledged abilities and extensive practice, and what is of some consideration in a tight political contest, he can run up to his party strength in the empire county and a little over."[12] The *Keokuk Register* added that Miller's "nomination . . . . by acclamation, is a sufficient guarantee to this district, of his devotion to the principles of the Whig faith. Indifference only can bring defeat."[13]

Daniel F. Miller was, indeed, one of the most widely known pioneers and lawmakers of Iowa. Born in Maryland in 1814, he removed in his youth to Pittsburgh, Pennsylvania, where he studied and practiced law until 1839

[10] For the proceedings of the Whig Convention of the First District see the *Keokuk Register,* Vol. II, No. 1, May 25, 1848.

[11] *The Bloomington Herald,* New Series, Vol. III, No. 106, May 27, 1848.

[12] *The Iowa Standard* (Iowa City), New Series, Vol. II, No. 34, May 31, 1848.

[13] *Keokuk Register,* Vol. II, No. 1, May 25, 1848.

when he emigrated to the Territory of Iowa, locating at Fort Madison. Elected a Representative to the Legislative Assembly of the Territory of Iowa in 1840, he held that office for one term. His appearance in politics in 1848, as the Whig candidate for Congress from the First District, is of unusual interest, for out of the ensuing August election developed the first contested congressional election case in the history of Iowa. Mr. Miller was one of the founders of the Republican party in Iowa and was one of the presidential electors in 1856 when the vote of the State was cast for the Republican candidate for the presidency. In 1860 Mr. Miller was an independent candidate for Judge of the Supreme Court of Iowa, but was defeated by Judge Wright, the Republican candidate. Fifty-three years after his election as Representative to the Legislative Assembly of the Territory of Iowa, Mr. Miller was elected in 1893 to the General Assembly of Iowa. Mr. Miller practiced law in Iowa for fifty-four years and was known as the "Nestor" of the Iowa bar. He died in Omaha, Nebraska, in 1895.[14]

The Democrats of the First District met in convention at the Court House in Fairfield on June 15th. The temporary organization was composed of David Hendershott of Henry County, chairman, and George May of Wapello County, secretary. Committees on credentials, on permanent organization, and on resolutions were appointed by the chairman, and then the convention adjourned until one o'clock. In the interval, Delazon Smith, upon invitation addressed the delegates "in an able and powerful address, showing up the inconsistencies of the Whigs."

When the convention reassembled in the afternoon, the committee on permanent organization made the following recommendations: President, Uriah Briggs; Vice Presidents, Robert Brown and William M. Morrow; Secretaries,

[14] Gue's *History of Iowa,* Vol. IV, p. 191.

Guy Wells and James Craig. The recommendations were accepted and the permanent organization duly effected. The report of the committee on credentials was then presented and adopted, whereupon a motion was made to require a two-thirds vote in the nomination of a candidate for Congress, but the motion was lost.

The candidates for the nomination were William Thompson and Delazon Smith. The result of the first ballot showed that William Thompson had received 43 votes and Delazon Smith 14 votes, whereupon Augustus Hall moved that Mr. Thompson be declared the unanimous choice of the convention as the Democratic candidate for Congress in the First District.[15] The motion was carried.

The report of the committee on resolutions was presented by S. J. Bayard, Chairman, the other members of the committee being Col. C. J. Crocker, George May, J. B. Hamilton, and J. D. Spalding. It consisted of eleven resolutions which were adopted unanimously by the convention as the platform of the Democratic party in the First District. Cautiously avoiding, as did the Whig platform of this district, any reference to the real issue, the resolutions are interesting chiefly as a lengthy pronouncement of patriotic encomiums on Lewis Cass and General Butler — the nominees of the Democratic National Convention. "Resolved, That in Lewis Cass", ran one resolution, "we realize the statesman — the wise and discreet senator — the able diplomatist — the accomplished scholar — the patriot in war and peace — the soldier whose sword always glittered in the van of danger — the Democrat, ever in favor of the cause of liberty and the widest spread of free principles." Another resolution recognized General W. O. Butler as "the gallant soldier of 1812 — one of the heroes of Monterey —

[15] For a biographical sketch of William Thompson see THE IOWA JOURNAL OF HISTORY AND POLITICS, Vol. X, p. 491.

an enlightened statesman, a sound Democrat, and a patriot without guile."

The platform did "not approve of electing a President whose only recommendation is his military achievements", arguing that "*some* service in *civil station* is necessary to qualify any one to discharge satisfactorily the duties of chief magistrate of this United States." This was intended as a reproach to General Taylor, whose only public service which commended him for the presidency was his military record in the Mexican war. Again, it was contended, "That as the South has had the President for forty-eight out of sixty years we think it time to elect another from the North."

Finally, the resolutions approved "the Baltimore platform",[16] commended "the course of our present member of Congress, W. Thompson," who "is entitled to the confidence and support of his constituents", congratulated James K. Polk "for the fidelity with which he has carried out" the "principles" of the Democratic party and "for the prudence, skill, and success with which he has conducted the Mexican war to its close", and pledged "the use of all honorable efforts to secure the election of the nominee of this convention."

A resolution proposing that in the election of United States Senators one Senator ought to be chosen from the First Congressional District was rejected. The proceedings of the convention were concluded by the appointment of a "Congressional Central Committee of Correspondence for the First District" consisting of the following members: S. J. Bayard of Jefferson County, Guy Wells of Lee County,

[16] For a statement of the resolutions adopted by the Democratic National Convention in 1848 see Stanwood's *History of the Presidency,* pp. 199–201; 215, 216; 234–236. The Whig National Convention adopted no platform in 1848.

H. B. Hendershott of Wapello County, A. Hall of Van Buren County, and T. Baker of Polk County.[17]

In the meantime, the party organs began to urge the importance of selecting candidates for Congress from the Second District. *The Iowa Standard* on May 24th admonished "our whig friends in this district to begin to think seriously about a suitable nominee. . . . The whigs in the counties south of the Iowa, are *wide awake* to this nomination. Will those in the northern counties *sleep* upon their *local* and *party* rights?"[18]

On May 27th, the Whig Congressional Committee of the Second District issued a call for a convention to be held at Bloomington on June 15th. The call specified the ratio of representation in the convention to be "one delegate for every one hundred voters (of all parties) in each county." Counties casting less than one hundred votes and not less than fifty were to be entitled to two delegates and those casting less than fifty votes were to be entitled to one delegate. "A full and general attendance, from all parts of the district" was requested. The call was signed by N. L. Stout, Isaac Leffler, William Penn Clark, E. H. Thomas, and John P. Cook.[19]

The Iowa Standard expressed the fear, however, that "there will be scarcely time to circulate the notice to the counties and townships, so as to ensure a general appointment of delegates . . . . and if there should not be some *extra* exertions, not half of them will be represented in the convention. We therefore earnestly entreat the leading whigs in the several county towns, to circulate the no-

[17] For the proceedings of the Democratic Convention of the First District see the *Keokuk Dispatch,* Vol. I, No. 5, June 22, 1848.

[18] *The Iowa Standard* (Iowa City), New Series, Vol. II, No. 33, May 24, 1848.

[19] *The Iowa Standard* (Iowa City), New Series, Vol. II, No. 34, May 31, 1848.

tices by special messengers, in every township in their respective counties, without an *hours delay;* that there may be a *real* and not a *nominal* convention of the *people's* representatives, as is too often the case. A full delegation is absolutely necessary, in order to insure a cordial acquiescence in the nomination, and without this, we cannot hope for success." In another editorial of the same issue, this organ observed hopefully that "if ever the whigs had a chance to carry this district, it is now. There are entirely too many *great* men in the locofoco ranks to get on harmoniously, and we have only to make a judicious selection in order to give 'em a real Buena Vista." Finally, this journal urged the farmers "to let go the plow-handle for a week, and prepare for the battle. And we venture to predict, that if the whig corps are properly organized and drilled, we shall 'lam 'em like blazes.' We ought to do it, we can do it, we must do it."[20]

The convention which met pursuant to the call effected a temporary organization by the appointment of J. P. De Forrest, chairman, and S. A. Hudson, secretary. After the appointment of the usual committees on credentials, on permanent organization, and on resolutions by the chairman, the convention adjourned until two o'clock in the afternoon.

When the convention met pursuant to adjournment L. Ely presented the report of the committee on credentials, which was adopted. Ebenezer Cook presented the report of the committee on permanent organization, which made the following recommendations: President, Isaac Leffler of Des Moines County; Vice Presidents, N. P. Cooper of Washington County and W. E. Jennings of Jackson County; Secretaries, Edward H. Thomas of Louisa County and

[20] *The Iowa Standard* (Iowa City), New Series, Vol. II, No. 34, May 31, 1848.

James H. Leech of Cedar County. The recommendations were adopted unanimously and the officers took their seats.

The question of counting the votes of counties not fully represented was settled by the adoption of a resolution providing "that the delegates from those counties which are not fully represented, cast the full number of votes to which said counties are respectively entitled, and that if the delegates cannot agree in their vote, that they vote individually." The convention then proceeded to ballot for a candidate for Congress, N. Everson and J. S. Richman being appointed as tellers. The result recorded by the first ballot stood as follows: Timothy Davis, 43; Major McKean, 34; Isaac Leffler, 6; and Col. Henderson, 1. Mr. Davis was thereupon nominated unanimously as the Whig candidate for Congress from the Second District.

The committee on resolutions, composed of Stout, Clark, and Patterson, presented the report consisting of a preamble and twelve resolutions which was adopted unanimously as the platform of the Whig party in this district. More direct and dignified than the platform of either the Whigs or the Democrats of the First District, this document assumed a more definite attitude on the questions engaging the attention of the public mind. The preamble emphasized the following considerations: (1) "a change in the national administration" was "necessary . . . . in order to secure a just and equitable administration of public affairs"; (2) the election of the nominee of the Baltimore Convention "would not effect such change"; (3) "such change can only be brought about by the elevation of men to power who have been in no wise connected with the present corrupt administration of affairs"; (4) "the necessity of the representative branch of the Government being composed of the friends of Western and National interests." The following resolutions were then presented:—

1st. Resolved, That the first and most important labor to be performed by the representatives, of the people, from the West in Congress, is to secure an appropriation from the General Government for the improvement of rivers and harbors; and we shall support no man for that trust who shall, in any way, be committed to the present administration.

2d. Resolved, That the Executive has no moral or constitutional right to trifle with the interests of the people by capriciously using the veto power for the mere indulgence of his private piques or opinions — and to do so, is a wanton violation of the practice of the early administrations of the government, and a usurpation of power not granted by the spirit, letter, or intent of the national constitution.

3d. Resolved, That we will use our best endeavors to secure the election of a man to represent this district in Congress, who shall be untrammeled by the power and patronage of government; one who shall be a free man, and not an Executive Slave.

4th. Resolved, That we view the nomination of General ZACHARY TAYLOR as giving an opportunity to the people to elect a man, who will be the President of the whole people, and not of a faction of official sycophants and lacqueys.

5th. Resolved, That in MILLARD FILLMORE we recognize a staunch patriot; a statesman of tried ability and profound political knowledge, and with him and the noble TAYLOR, as our standard bearers, we expect an easy and triumphant VICTORY of the people over the Candidate of the present corrupt and unscrupulous administration — for in Lewis Cass we recognize only a continuation of the present dynasty.

6th. Resolved, That the veto power has, by its wanton abuse, become obnoxious to liberty and dangerous to the perpetuity of our institutions and that it is high time that this power was restricted so that it cannot interfere with the will of the people, as expressed through their representatives in Congress.

7th. Resolved, That the opinion of General TAYLOR upon this subject meets with the entire approbation of this convention, to wit: "The known opinions and wishes of the Executive have exercised undue and injurious influences upon the Legislative department of the Government; and for this cause I have thought our system was in danger of undergoing a great change from its true theory."

8th. Resolved, That Lewis Cass owes all that he is, and all that he possesses, to the growth of the Great West; and that in his recreancy to her dearest interests, he has proved himself alike destitute of gratitude and public virtue: — and we mutually pledge ourselves to see that he shall find his proper level in the defeat which awaits him before the great tribunal of the American people.

9th. Resolved, That the difference between Democracy and Locofocoism is, that the first contemplates the rule of popular will; while the latter has no motives of action but the public spoils — and to secure these, it has sustained the arm of tyranny in the support of the will of one man for the defeat of important public measures . . . .

10th. Resolved, That we, as Whigs, ... will guard the will of the people against the fashionable usurpation of Locofocoism, as developed in the course of Polk's policy.

This platform having been accepted by the convention, the following resolutions were presented and adopted:—

1. Resolved, That in Timothy Davis, this convention presents a candidate to the Whigs of this District, who is regarded as eminently qualified for their support for Representative in Congress, and we here pledge ourselves to use all honorable exertions to promote his election.

2. Resolved, That we are in favor of the Wilmot Proviso, so called, and that duty and patriotism require us to declare that we are opposed to the extension of slavery over any territory now possessed, or which may be hereafter acquired by the United States.[21]

Timothy Davis was an old and respected citizen of Dubuque. He was born in New Jersey in 1794. After receiving a common school education, he emigrated to Kentucky where he studied law in 1816. Upon removing to Missouri in the same year, he practiced law in that State for twenty years. At the end of that period he came to Iowa and located at Dubuque. Mr. Davis was a staunch Whig, but upon the dissolution of the Whig party he affiliated with the

[21] For the proceedings of the Whig Convention of the Second District see *The Bloomington Herald,* New Series, Vol. III, No. 108, July 1, 1848.

Republicans. Elected to Congress in 1856, he retired from public life at the end of his term.[22]

The Democrats of the Second District met in convention at Davenport on June 15th.[23] Complete records of the proceedings of this convention have not been found.[24] Some important facts, however, have been gathered from the newspapers of the time, which throw considerable light on the convention. *The Iowa Standard,* on May 31st, observed that "There are lots of aspirants," for the Democratic nomination for Congressman from the Second District, "and they are as bees in drilling their men; in a locofoco convention, the nomination is the real election, and the balloting in August, is merely for the purpose of enabling the nominee to obtain a certificate, if the whigs fall below in counting noses."[25] Shepherd Leffler was a candidate for renomination, but the names of no other candidates are given in the records examined. It must be concluded, therefore, that Mr. Leffler was the only candidate seriously considered for the nomination.

Again, the *Keokuk Dispatch* informed its readers that strenuous efforts were made in the Second District to prevent Leffler's nomination, based mainly upon the ground that he had neglected the interests of that district in failing to procure a donation of land to aid in the construction of a railroad from Dubuque to Keokuk. In reply to this charge, the *Keokuk Dispatch* published a letter which had appeared

22 Gue's *History of Iowa,* Vol. IV, p. 68.

23 It will be observed that the Democratic conventions of both congressional districts and the Whig convention of the Second District assembled on the same date.

24 The failure to find any record of the proceedings of this convention is due to the fact that gaps occur in the files of several Democratic newspapers of the time. Again, other Democratic organs, the files of which are complete, give no report of this convention.

25 *The Iowa Standard* (Iowa City), New Series, Vol. II, No. 34, May 31, 1848.

in the *Miner's Express* (Dubuque) showing that Leffler had in fact labored in behalf of the Dubuque and Keokuk railway project. This letter was written by Mr. Leffler to Mr. Collamer, Chairman of the Committee on Public Lands in the House of Representatives. Mr. Leffler stated that a memorial had been passed by the last General Assembly of Iowa, by unanimous vote, asking for a grant of land for the construction of the Dubuque and Keokuk Railroad and that this memorial had been forwarded to him. Four arguments were then presented in favor of this project: (1) the Government would receive remuneration for this grant in the enhanced value of unsold lands; (2) the railroad would pass through a rich agricultural area; (3) it would afford cheap markets; and (4) the land would lie unoccupied longer without the railroad. Mr. Collamer was then quoted as replying that the committee was disposed to favor the project, but that nothing could be done until "official information", which would authorize them to report the memorial for the favorable consideration of Congress, should be received.[26]

It is evident, therefore, that Leffler defended himself successfully against the charge of neglecting the interests of his constituents, for the attempted opposition to his nomination culminated in failure and he was recommended by the convention for reëlection to Congress and was well supported by the Democrats of the Second District in the ensuing campaign.[27]

Finally, while no record has been found of the resolutions passed by this convention, *The Bloomington Herald* states

[26] *Keokuk Dispatch,* Vol. I, No. 10, July 27, 1848.

See also the *Weekly Miner's Express* (Dubuque), Vol. VIII, No. 10, November 3, 1848, which contains a long editorial concerning Leffler's candidacy for Congress. This editorial quotes a letter signed by "Justice", which contends that Leffler labored for "the North" in the matter of securing a public land grant for the construction of the Dubuque and Keokuk Railroad.

[27] For a biographical sketch of Shepherd Leffler see THE IOWA JOURNAL OF HISTORY AND POLITICS, Vol. X, pp. 475, 476.

that "The locofoco Congressional Convention, which met at Davenport on the 15th of June, swallowed the entire resolution of the Baltimore convention, prohibiting internal improvements."[28] This resolution reads as follows: "*Resolved,* That the Constitution does not confer upon the general government the power to commence and carry on a general system of internal improvements."[29] The adoption of this resolution was antagonistic to the first provision of the Whig platform of the Second District, which stated that "the most important labor to be performed by the representatives of the people from the West in Congress is to secure an appropriation from the General Government for the improvement of rivers and harbors." It was to be expected, therefore, that the Whigs would ridicule and denounce the Democrats in the coming campaign for taking a position hostile to the interests of the people of Iowa. Judging from the tone of the press, the Democrats of the Second District in general approved the Baltimore platform. It is evident, too, that they were careful to avoid any reference to the issue of slavery extension.

The congressional platforms of the respective parties of the two districts having been announced and the candidates for Congress presented, the campaign opened with great earnestness and enthusiasm. As early as the month of May the *Keokuk Register* observed that "the calm which usually precedes a political campaign, already gives indications of a stormy season. In a government, constituted as the American Republic, that clashings should not unfrequently arise between the people and those in power, is to be expected, and in an examination of the causes which provoke differences, the usurpations of the latter will be found to present the most fruitful source. Such is the con-

[28] *The Bloomington Herald,* New Series, Vol. III, No. 108, July 1, 1848.

[29] Stanwood's *History of the Presidency,* p. 200.

test upon which the people of this country are now about to enter. . . . The question has become one of ascendency between the ruler and the governed. It is therefore of the utmost importance, that harmony shall prevail. Personal predilections and personal enmities should all be surrendered, in order to secure the important result. . . . Without unanimity, irrevocable defeat stares us in the face. This unanimity is perhaps more general, than has hitherto ever existed.''[30] Following these observations, the nomination of Daniel F. Miller for Congress was approved with the remark that his devotion to the principles of the Whig party was a sufficient guarantee to the people of the First District.

A week later this same journal predicted that ''The policy for which the Whigs have so long been contending, in regard to National and State policy, must be adopted, whichever party be in power. Necessity will enforce it, and the chameleon, 'progressive democracy', can easily change color, to suit the emergency. But other questions of the first magnitude,'' remarked this organ, ''are presented''. These questions are summed up as follows: (1) ''the encroachments of the Executive upon the other departments of the Government''; (2) ''the utter disregard of western interests''; and (3) ''the grasping after additional slave territory.'' These considerations, concluded the *Keokuk Register,* ''should, independently of any other consideration, sink the administration in the estimation of the American people, into utter annihilation.''[31]

But the respective candidates for Congress were also to receive their full measure of praise and censure. Thompson and Leffler were charged in particular with having neglected and disregarded the interests of Iowa in their failure to

[30] *Keokuk Register,* Vol. II, No. 1, May 25, 1848.

[31] *Keokuk Register,* Vol. II, No. 2, June 1, 1848.

secure congressional appropriations for the improvement of the navigation of the Mississippi River and a public land grant for the construction of the Dubuque and Keokuk Railroad. Mr. Leffler's defense of himself against this charge has already been mentioned. In further justification of these two candidates for reëlection to Congress, the *Keokuk Dispatch* published an editorial which is presented in full, as follows:—

The nomination of Messrs. Thompson and Leffler, by the Democracy of the respective districts, is but a matter of sheer justice to these gentlemen. To have refused again to place their names before the people for re-election, would have implied a lack of confidence in their fidelity and ability, which, in our opinion, the circumstances of the case will not warrant. We know that there are many fault finders, grumblers, who think that our Representatives have not accomplished as much for the State as they were led to suppose would be in their power; but when we give due consideration to the adverse circumstances under which they have labored ever since taking their seats, truly generous hearts can, we think, cast no censure upon them for a failure to accomplish more for their constituents.

In the first place, let it be borne in mind that, ever since they took their seats in Congress, our country has been engaged in a war with a foreign power, and the whole country has been in commotion, a strong party trying to tarnish the fair reputation of our country by charging that the war, instead of being one in which a patriot might enlist with honor, was unholy, cruel, unjust and "God abhorred", the other striving with might and main to defend the government from this charge, little legitimate business of any kind, whatever, has yet been done. Those who are quietly at home, anxiously awaiting the passage of some favorite bill, have but a faint idea of the obstacles that present themselves in the way of obtaining the attention of Congress; but which are very apparent to an eye witness on the floor.

As a general thing, the western people look for too much from their representatives, and failing to receive all they anticipated, attribute the failure to a lack of zeal or ability in their immediate representatives, while perhaps, the matter was beyond the possi-

bility of man; consequently we find that few western members are able long to retain their seats, while in the east, members no more successful, are frequently retained for many years.

Indeed, fault-finding, without cause, has become so common that we find ministers of the gospel have become addicted to it. We do not recollect ever to have heard complaint made that, in the order of things, a certain mischievous imp, known as His Satanic Majesty, was created, but from every desk we hear the old customer abused, in no unmeasured terms, for the faithful manner in which he discharges his duty. Since we find that grumbling is the order of the day, we take it that Messrs. Leffler and Thompson, instead of meriting censure, deserve well at the hands of the people.[32]

The campaign in July was characterized by great earnestness and numerous dramatic incidents. Campaign clubs were formed; public celebrations were held, accompanied by political speech-making and frontier merriment; and various "Railroad Meetings" were called and well attended. Party organs indulged in vigorous personalities and in violent attacks on opposing party platforms and candidates. Thus the campaign progressed until the congressional elections in August and continued until the presidential election in November.

On July 1st, *The Bloomington Herald,* in referring to the action of the Democratic convention of the Second District in adopting the resolution of the Baltimore platform prohibiting internal improvements at national expense, made the following caustic comments:—

> Now it will be remembered, that, one year ago, these locofoco folks pretended to be in favor of the improvement of harbors and rivers. . . . Well, Polk's veto message came out, and the pack wheeled into line — that is, the office seekers and executive slaves. They swallowed the veto message whole. They now swallow the Baltimore resolution, because their candidate has endorsed it as good "democracy".
>
> It remains to be seen whether the yeomanry of Iowa, and the

[32] *Keokuk Dispatch,* Vol. I, No. 5, June 22, 1848.

Union, will wheel into line, as readily — whether they will be willing to forego the advantage of a long established construction of the constitution, upon this vital subject, and swallow the dogmas of Polk and Cass.

After reviewing the fact that Jackson had signed bills, making appropriations for internal improvements, "for more than *ten millions* of dollars during the eight years of his administration", and calling in question the democracy of "the Baltimore Convention folks", this journal called attention to Democratic inconsistency in the following terms:—

> Be it known that to improve the rapids of the Mississippi river, is, according to modern "Democracy", unconstitutional! . . . : but the constitution, according to the same high authority, confers power to fit out a ship of war, and men, to explore the Dead Sea. It also gives power to dig a canal . . . . across the isthmus of Tehuantepec. Is there any honesty or candor in these men? If these things are all right, then is the most absurd thing become rational. How is it, farmers of Iowa.[33]

In reply to the attacks of their opponents, the Democrats charged that the Whigs were guilty "of manufacturing and circulating charges . . . . against our party, our principles, and the conduct of our public men" which were "of such aggravated malignity" that they were "utterly without foundation in truth." It was intimated, too, that "no misrepresentation" was "too glaring, no accusation too preposterous, to find a greedy market among the orators and press of the Federal party." Finally, "every Democrat" was counselled to be "on his guard", to "watch his opponents closely and meet fearlessly every attack of the wily enemy with truth."[34]

But the Democrats did not confine themselves wholly to a defense of their party principles and candidates. They

[33] *The Bloomington Herald,* New Series, Vol. III, No. 108, July 1, 1848.

[34] *Iowa Democratic Enquirer* (Bloomington), Vol. I, No. 2, July 15, 1848.

reminded the Whigs of the unwelcome truth that their party was divided in its counsels and that it was composed of two irreconcilable factions based on sectional lines. This divergence of views between the northern and southern wings of the Whig party was reviewed by the *Iowa Democratic Enquirer* (Bloomington), as follows:—

WHIG PRINCIPLES

NORTH	SOUTH
1. All men have certain inalienable rights.	1. Two hundred years of legislation have sanctified it.
2. No more territory.	2. "Absorption of Mexico!"
3. Wilmot Proviso.	3. All territory adapted to slave labor!
4. Protective tariff.	4. Sufficient for revenue.
5. United States Bank.	5. Obsolete idea!
6. Rivers and harbors.	6. Economical administration of the government!
7. Rights of the North.	7. Our "peculiar institution"!
8. No more foreigners.	8. No objection to foreign emigration!
9. Damnable, God abhorred war!	9. "I might slay a Mexican!" — Clay.
10. Pirates, robbers & murderers.	10. Our gallant army!
11. Our Fillmore.	11. Old Zach!
12. Distribution of the proceeds of public lands.	12. Not expedient under existing circumstances.
13. State responsibility.	13. Assumption State debts!
14. Guard the public domain.	14. Pre-emption and graduation!
15. Manufacturers.	15. Agriculture![35]

Thus did a leading Democratic journal of Iowa analyze the position of the Whig party in 1848. From this analysis two conclusions are to be drawn: (1) slavery was the ulti-

[35] *Iowa Democratic Enquirer* (Bloomington), Vol. I, No. 2, July 15, 1848.

mate basis of the division of the party into northern and southern wings; and (2) this division was a source of weakness to the Whig party in Iowa. As long as the Whig party was preserved intact as a national organization, the party in Iowa was united, but when the national organization was finally rent asunder, the Whigs of Iowa were among the first to dissolve, the major portion of them joining with the Free Soilers in the formation of the Republican party. In the meantime the Whigs of Iowa were taunted with the fact that their party was divided and that it would avail them nothing to elect Representatives to Congress for they could accomplish little in opposition to Southern wishes.

The Whigs, on the other hand, endeavored to neutralize the effect of this contention by the countercharge that the Democratic leaders were trying "to rise to place and power by falsehood and misrepresentation of the course marked out by the candidates of the Baltimore nomination" observing that "Not withstanding the fact exists, that the convention which nominated Gen. Cass repudiated the doctrines of river and harbor improvement, and the conventions, in this State, have endorsed the position of the Baltimore nomination, still in the face of such glaring facts, the leaders of the party here undertake to say that they are in favor of these improvements, and contend that Cass is also. Yet they freely endorsed the doctrines of the veto of the river and harbor bill, by Mr. Polk, which declared that Congress had no power to improve the rivers and harbors." It was "upon such as volunteer these contradictions and untruths," concluded the Whigs, "that we war! — and we ask the people to consider."[36]

In the meantime, the respective candidates for Congress were actively engaged in the canvass. A number of speeches were delivered, but none of them were printed in the

[36] *The Bloomington Herald,* New Series, Vol. III, No. 110, July 15, 1848.

newspapers of the time. On the other hand, the candidates came in for their full share of commendation and denunciation, which, however, so far as can be judged from the records, had no appreciable effect in determining the result of the election.

Interest now shifted, in particular, to the First District, where Daniel F. Miller had a fighting chance against his opponent, William Thompson.[37] On July 27th, the *Keokuk Dispatch* copied the following editorial from the *Fairfield Sentinel* summarizing Thompson's chances for reëlection:—

> We are pleased to hear, from all quarters of the district, that the prospect of the re-election of Mr. THOMPSON is of the most auspicious character. His industry and devotion to the interests of his constituents have been constant, and most conducive to the public welfare. In adding to the mail facilities of his constituents, he has been assiduous and most successful. In obtaining from the proper department a speedy and liberal construction of the Des Moines River Grant, he evinced much tact, and most commendable zeal. The improvement of the Mississippi rapids . . . . the railroad from Keokuk via Iowa City to Dubuque, and the railroad from Davenport to Council Bluffs, which, if constructed, will pass through the heart of our district, have all received his support, and will continue to be sustained by him. His opponent is actively engaged in canvassing the district. We are told that he assails Mr. Thompson, but are uninformed of the ground he takes against him. . . . If he should address the people here before the election, we invite him to renew his attacks . . . . and he will find that his assaults on the course and votes of Mr. Thompson will be most frankly and specifically met.[38]

On the same day, the *Keokuk Register* came out in a long editorial addressed "To the Voters of the First Congressional District." After reviewing at length the administration of James K. Polk and denouncing especially the

[37] The outcome of this campaign was the first contested congressional election case in the history of Iowa. This case will be discussed in the next article.

[38] *Keokuk Dispatch,* Vol. I, No. 10, July 27, 1848.

annexation of Texas and the conduct of the Mexican War, it went on to make the following observations relative to the congressional campaign in the First District:—

It is fair to presume that Mr. Thompson gives his blind adherence to the actions of the administration as it has received the sanction of a portion of the party that nominated him, and will sustain Gen. Cass in similar assumptions, as the course of the President has received his hearty approval. On the other hand, Mr. Miller is a zealous advocate for a strict construction of the constitution; an advocate of that fundamental principle of Government that the will of the people should be superior to that of a man; is devoted to the extension of western instead of the South or Eastern Seaboard exclusively; is in favor of raising the tariff to gradually liquidate a heavy national debt, without taxing tea and coffee, the luxuries of the poor, or resorting to direct taxation; does not question the power of Congress to legislate over territory, which has been or may be acquired, and recognizing the existence of slavery as admitted by the Constitution, to be an inviolable right opposite to extension over other territory.

Mr. Thompson nor his friends have expressed, so far as we are informed, his opinions of public policy. We are then compelled to assume the principles promulgated by the Baltimore Convention as declaratory of his views. That manifesto regards the acts of President Polk as great reforms. It is opposed to a National Bank; circumstances render a bank unnecessary if not inexpedient, and the Whigs, in no place have raised it as a question.— It is opposed to the distribution of the public lands. How could it be otherwise since Congress has already pledged them to the volunteers?— It is opposed to the Wilmot Proviso. The Whigs are in favor of free soil and free labor, in the new territory.— It is opposed to altering the Tariff of 1846. Our country is a hundred millions in debt with interest continually increasing, our government must then either repudiate or resort to direct taxation.— The Whig doctrine is to let the tariff meet this exigency of the Government.— It is opposed to a general system of internal improvements. The Whigs are in favor of benefiting our countrymen by increasing facilities for transportation to market by judicious appropriations on the great commercial thorough fares of the nation.

These are the principal points of difference and these you will be called to decide upon, on the 7th day of August next. Never, perhaps, since the origin of our Government have more momentous questions been presented. The preservation of the great principles of constitutional liberty are now placed in your hands. Will you show yourself worthy of the trust? Then use your voices, your influence and your vote in securing the right, and while every man does his duty there is no such word as fail.[39]

In concluding this account of the congressional campaign and election of 1848, reference should be made to the entrance of a third party in Iowa politics at this time: the Free Soilers. Although a negligible factor in the campaign of 1848, the Free Soil Party is nevertheless of great significance in the light of later developments. Led by men who were dissatisfied with the compromising position of the Whigs and Democrats on the question of slavery extension, this party formed the basis on which the various anti-slavery extension elements united in the formation of the Republican party.[40] The discussion of the Free Soil movement in Iowa will, however, be deferred to a future paper. It is sufficient to state in this connection that Iowa furnished two Free Soil candidates for Congress in 1848. In the First District, Samuel L. Howe announced himself as the Free Soil candidate; while in the Second District, James Dawson appeared as the congressional nominee. The one issue on which these two gentlemen based their candidacy was "Free Soil, Free Speech, Free Labor, and Free Men", but there is no evidence that the candidates displayed any activity in the congressional campaign. Nor did their candidacy attract much attention.

The election took place on Monday, August 7th. The official returns showed that the Democratic nominees in both congressional districts had won by safe margins. In

[39] *Keokuk Register,* Vol. II, No. 10, July 27, 1848.

[40] For a discussion of the Free Soil party see Woodburn's *Political Parties and Party Problems in the United States,* Chapter VI.

the First District, William Thompson received 6477 votes, Daniel F. Miller 6091, and Samuel L. Howe 310. Thompson, therefore, had the lead over Miller by 386 votes. If the votes received by Miller and Howe are combined, Thompson's majority is cut down to 76 votes. In the Second District the vote stood as follows: Shepherd Leffler, 5789; Timothy Davis, 5398; James Dawson, 178; and scattering, 8. Thus Leffler had the lead over Davis by 391 votes, and a majority of 205 votes over all the other candidates combined.

An analysis of the official returns by counties shows that in the First District the Whigs carried the counties of Dallas, Henry, Jasper, Mahaska, and Poweshiek; while in the Second District they carried the counties of Delaware, Jones, Linn, Muscatine, Washington, and Louisa. The Democrats carried all the other counties except Johnson County in the Second District which cast 347 votes each for Leffler and Davis. The Free Soil vote was cast as follows: In the First District, Henry County gave Howe 135 votes; Jefferson County, 9; Lee County, 110; Van Buren County, 55; and Wapello County, 1. In the Second District, Dawson polled 4 votes in Clayton County, 1 vote in Iowa County, 95 votes in Washington County, 14 votes in Louisa County, and 64 votes in Des Moines County.[41]

On December 3, 1849, Shepherd Leffler and William Thompson presented their certificates of election duly authenticated by the Governor of Iowa, and were admitted to their respective seats in the House.[42] But the election of William Thompson was to be contested by Daniel F. Miller, as the sequel will show.

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[41] Election returns as found in the Archives in Des Moines.

[42] *Congressional Globe,* 1st Session, 31st Congress, 1849–1850, p. 2.

CAPTAIN JAMES ALLEN'S DRAGOON EXPEDITIO
FROM FORT DES MOINES, TERRITORY OF IOWA, IN 1844

The United States House of Representatives passed resolution on the 29th of January, 1845, requiring the Se retary of War to furnish "a copy of the report, journa and map of Captain J. Allen, of the first regiment dragoons, of his expedition during the past summer to th heads of the rivers Des Moines, Blue Earth, etc., in th northwest". The papers transmitted by Mr. Marcy in com pliance with this request form No. 168 of the *House Ex ecutive Documents,* 29th Congress, 1st session, and ar reprinted below because they are believed to be deservin of a wider circulation than rare government publication permit.

BIOGRAPHICAL SKETCH OF JAMES ALLEN

James Allen was born in Ohio in the year 1806. At nine teen years of age he entered the United States Militar Academy as a cadet from the State of Indiana, and on th last of July, 1829, he was graduated thirty-fourth amon the forty-six members of a class made memorable by suc men as Robert E. Lee and Joseph E. Johnston of the Con federate States army and Charles Mason, Chief Justice o the Supreme Court of the Territory of Iowa.[1]

Second Lieutenant Allen was at once assigned to dut upon the western frontier. While he was stationed wit three companies of the Fifth Regiment of Infantry at For Brady, Sault Ste. Marie in the Territory of Michigan, th

[1] See Mr. Clifford Powell's article on the *History of the Codes of Iowa La* in THE IOWA JOURNAL OF HISTORY AND POLITICS, Vol. X, p. 12.

War Department authorized Henry R. Schoolcraft to make an expedition to the Indians of the Northwest. Then, in obedience to Major General Macomb's order to detail an officer with ten or twelve men to escort the party, the commandant at Fort Brady selected young Allen.

Between the 7th of June and the 25th of August, 1832, Schoolcraft and Allen headed a company of thirty-five persons and traveled a distance of two thousand eight hundred miles. So far as time and means allowed, Allen prepared a journal of some sixty-eight printed pages in accordance with directions "to describe the country . . . . to delineate, topographically, the route and several points of importance; to ascertain the manners and characters of the various Indian tribes, their numbers, strength in warriors, condition, mode of living, of obtaining subsistence, whether at peace with their neighbors or not, their places of resort for foreign supplies, how supplied, and by whom." Furthermore, he noted down the nature of the soil; the geology, mineralogy, and natural history, and furnished information as to the quantity, quality, and facilities of procuring the game and fishes of the region.[2]

Lieutenant Allen submitted his map and daily account of the expedition to the Secretary of War, Lewis Cass. The journey had proven to be one of considerable achievement, for as the famous geographer Nicollet declared a few years later: "The honor of having first explored the sources of the Mississippi, and introduced a knowledge of them in physical geography, belongs to Mr. Schoolcraft and Lieutenant Allen. I come only after these gentlemen; but I may

[2] For this famous expedition to and beyond the sources of the Mississippi River on a visit to the northwestern Indians, see *House Executive Documents*, 1st Session, 23d Congress, No. 323; or *American State Papers, Military Affairs*, Vol. V, pp. 312–344.

Allen's map may be found in Schoolcraft's *Narrative of an Expedition through the Upper Mississippi to Itasca Lake* (1834).

be permitted to claim some merit for having completed what was wanting for a full geographical account of these sources.''[3]

On March 4, 1833, Allen became a second lieutenant of the First Regiment of Dragoons, an organization of horse troops with headquarters at Jefferson Barracks near St. Louis, created by Congress as a species of frontier military force, which soon came to be especially dreaded by the Indians of the Middle West. Allen remained on staff duty at Fort Dearborn, Chicago, until his promotion to a first lieutenancy on May 31, 1835, when he began to serve at Forts Leavenworth and Gibson in the South as an engineer ''in connection with the reconnoisance of the Indian country.'' A captaincy was his reward on June 30, 1837.

During the summer of 1842 Captain Allen received orders to march to Fort Atkinson, Territory of Iowa, with Company I of the Dragoons. Taking a direct route from Fort Leavenworth, crossing the Des Moines River above the Raccoon Fork, he arrived at his post among the Winnebago Indians on August 7, 1842. Soon afterward he proceeded to the Sac and Fox Agency, twenty miles due west of Fairfield. By permission of Major John F. A. Sanford of the American Fur Company, Captain Allen quartered his

[3] *United States Executive Documents,* 2nd Session, 28th Congress, No. 52, p. 59.

Elliott Coues wrote: ''James Allen's name is not so well known in this connection as it should be. That is to say, the public seldom connects his name with the discovery of Lake Itasca. But if Mr. Schoolcraft was the actual head of the expedition of 1832, and became its best known historian, Lieutenant Allen was a large and shapely portion of the body of that enterprise, decidedly the better observer, geographer, and cartographer; . . . the author of an able, interesting, and important report upon the subject, which he made to the military authorities . . . . His movements were the same as Mr. Schoolcraft's . . . . ; his operations more extensive and more intelligently directed to explore and report upon the country. He named Schoolcraft Island and various other things; Allen's Bay was named for him by Mr. Schoolcraft, and Allen's Lake by Mr. Brouwer.''— *The Expedition of Zebulon M. Pike,* Vol. I, p. 332, footnote.

dragoons in eight log cabins then abandoned for purposes of Indian trade, and also built stables for his horses and huts for two officers. This temporary post he designated Fort Sanford, but the Government retained the name of the agency.

On November the 12th, 1842, the commandant conducted a small force on an expedition to the mouth of the Raccoon River. There, at the confluence of the Raccoon and the Des Moines, he established a new military post, evacuating his camp at Sac and Fox Agency on May 17, 1843. The troops at once set about constructing officers' quarters, barracks, stables, and corrals, and also laid out gardens. Allen chose the none too euphonious name "Fort Raccoon" for this western post, but General Scott of the War Department preferred to call it Fort Des Moines.

Although Captain Allen was kept busy protecting the Sacs and Foxes in their treaty rights by driving squatters back across the Indian border, he found time to make the exploring expedition of which he rendered the journal reprinted in these pages. In the summer of 1845 he was ordered to join Captain Sumner of Fort Atkinson on a visit to the Sioux dwelling along the St. Peter's or Minnesota River.[4]

Upon Captain Allen's recommendation Fort Des Moines continued to be occupied until the spring of 1846, when the troops marched out to serve as a military escort for the remnant of the Sacs and Foxes who had not removed to Kansas with their tribe in October, 1845. The site of Allen's post was, within a short time, destined to become the home of hundreds of ambitious pioneer families, the county seat of Polk County, and in 1857 the capital of the State of Iowa.

[4] *United States Senate Documents,* 1st Session, 29th Congress, No. 1, pp. 217–220.

When hostilities arose between Mexico and the United States, Brigadier General Stephen W. Kearny was placed in command of the march to Santa Fé and California. He despatched Allen northward to bring back several companies of Mormon recruits. The Mormons had been driven from their temple city of Nauvoo by the irate citizens of Illinois and were scattered along the road across Iowa. It was just after they had planted their settlement at Mt. Pisgah that Captain Allen arrived, issued his "Circular to the Mormons", and with Brigham Young proceeded to their camp on the Missouri River. There he opened a recruiting office, secured five companies of one hundred men each,[5] gave the Mormon refugees a fête or ball, which is said to have been a fine affair, and then conducted the volunteers to the rendezvous at Fort Leavenworth. Just after this "Mormon Battalion" began its march to New Mexico, the commander became suddenly ill and died of "congestive fever" on the 23d of August, 1846. "Thus," wrote Colonel Doniphan, "died Lieutenant-colonel Allen, of the 1st Dragoons, in the midst of a career of usefulness, under the favoring smiles of fortune, beloved while living, and regretted, after death, by all who knew him, both among the volunteer and regular troops."[6]

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IOWA CITY

[5] Linn's *The Story of the Mormons,* p. 371; and Hyde's *Mormonism,* p. 143.

[6] For facts in the life of James Allen the writer is indebted to Heitman's *Historical Register and Dictionary of the United States Army,* 1789–1903, Vol. I, p. 159; *Annals of Iowa* (Third Series), Vol. IV, pp. 164–177, 291–293, 451; *The Centennial of the United States Military Academy,* 1802–1902, Vol. I, p. 837; and Hughes' *Doniphan's Expedition,* pp. 134, 135.

In his *History of Des Moines and Polk County,* Vol. I, pp. 19–24, 47–54, Mr. Johnson Brigham reprints a part of Allen's *Journal* and shows his appreciation of "the record of the soldier who planted the colony . . . . from which

REPORT AND JOURNAL OF CAPTAIN JAMES ALLEN'S DRAGOON EXPEDITION IN THE TERRITORY OF IOWA IN THE SUMMER OF 1844

[The following report and journal are reprinted verbatim from *House Executive Documents,* 1st Session, 29th Congress, No. 168, with the exception that the dates of entry in the journal are italicized for the purpose of emphasis.—EDITOR.]

ADJUTANT GENERAL'S OFFICE,
Washington, March 18, 1846.

SIR: The report of Captain J. Allen, 1st dragoons, of his expedition during the summer of 1844, was received too late to comply with the resolution of the House of Representatives of *January* 29, 1835, before the rising of the 28th Congress; and, understanding that the mover of the resolution (a member of the present Congress) is desirous that the resolution should now be complied with, I accordingly, in compliance with your instructions, furnish a copy of the report called for by the resolution above mentioned. Instead of the map of the route accompanying the report, I submit the more perfect map of the Upper Mississippi by Nicollet, (from which Captain Allen's sketch no doubt was taken,) upon which the route of the troops under his command has been carefully traced, in red lines, in the topographical bureau.

Should it be determined to publish Captain Allen's route, Colonel Abert is of opinion it would be best to use the plate prepared for Nicollet's map. This mode would be

subsequently grew the community life that forms the foundation of the present work.''

See also *History of the Church of Jesus Christ of Latter-Day Saints,* Vol. III, p. 191; and *Niles' Register,* August 1, 1846, Vol. LXX, p. 352.

The volumes of Heitman and Powell do not credit Allen with having attained the rank of Lieutenant Colonel, but *The Centennial of the United States Military Academy,* 1802–1902, Vol. I, p. 630, and *Niles' Register,* August 29, 1846, Vol. LXX, p. 416, and September 12, 1846, Vol. LXXI, p. 20, give him this title.

not only much less expensive, but would probably improve the original map,[7] which is one of much value.

I am, sir, very respectfully, your obedient servant,

R. JONES, *Adjutant General.*

Hon. W. L. MARCY, *Secretary of War.*

Report of an expedition into the Indian country, made by company "I," 1st regiment of dragoons, in obedience to orders No. 13, *dated headquarters third department,*[8] *St. Louis, Mo., June* 13, 1844.

The company was organized for this expedition in the early part of July, but was detained by subsequent orders until the 11th of August. It marched from Fort Des Moines with the following strength:

Captain J. Allen, 1st dragoons, commanding;
Assistant Surgeon J. S. Griffin, medical staff;
First Lieutenant P. Calhoun, 2d dragoons;
Second Lieutenant P. Noble, 1st dragoons;
Brevet Second Lieutenant J. H. Potter, 1st infantry, A. C. S., and A. A. Q. M.;[9]
50 rank and file of dragoons; and
2 privates of infantry.

The troops were provisioned with pork for 40 days, flour for 60 days, and small rations for 70 days. The route

[7] Allen's map does not appear as a part of Document No. 168.

[8] The United States was then divided into nine military departments. The commandants of Forts Atkinson and Des Moines in the Territory of Iowa received orders from Jefferson Barracks near St. Louis.

[9] John S. Griffin was the surgeon at Fort Des Moines during its brief existence from 1843 to 1846. Patrick Calhoun and Patrick Noble were Military Academy graduates appointed from South Carolina. Joseph Haydn Potter of New Hampshire ranked next to Ulysses S. Grant in the class of 1843, and was breveted several times for gallant and meritorious conduct in the battles of Monterey (1846), Fredericksburg (1862), and Chancellorsville (1863), and in the campaign terminating with the surrender of Lee's army (1865). He died a brigadier general in 1892.

designated in the department orders referred to was up the Des Moines river, and to the sources of the Blue Earth river of the St. Peter's; thence to the waters of the Missouri; and thence returning through the country of the Pottowatomies. So little was known of the true geography of the country to be passed over, that it was impossible to define the route beforehand with minute exactness; and I was of course embarrassed, in some degree, to estimate the time we ought to be out, and the distance we might have to march. I therefore made provision for a march of about 800 miles, and an absence of 70 or 80 days, assuming that many days might be employed in exploring the country near the line of our route. For the actual route passed over, I must refer to the accompanying map, which will show it more fully and completely than it could be made by any other description. The map was constructed by Lieutenant Potter, under my immediate direction, and the care of taking minute notes on the way, and the pains taken during its projection by that officer to secure all the information within his reach, will warrant me in saying that it gives a very correct delineation of the country passed over, as also the topography of other parts of this territory perhaps the most accurate on record.

For a minute description of the country, and a close relation of all matters connected with the march, I will refer to the accompanying journal, which gives the observations of each day, and is nearly a literal copy of my notes made at the time shown by the record.

The *route* was from this post up the Des Moines river on the west side, as far as the "Iron Banks," when we crossed that river a few miles above its forks, and 100 miles above the mouth of Raccoon; thence up between the forks, but near the west branch, to the extreme source of this branch, in a lake which I have named "the Lake of the Oaks," 248

miles from the mouth of Raccoon. This lake may be taken as the true source of the Des Moines river, being at the most northerly point of any of its waters, and the furthest from its mouth. It is otherwise remarkable for a singular arrangement of peninsulas, running into it from all sides, and for a heavy growth of timber that covers these peninsulas and the borders of the lake. We found its latitude, by several observations of the sun, to be 43 degrees, 57′ 32″; but the observations were made with a small and imperfect sextant, and ought not to be assumed as entirely correct. We had no means of determining its longitude, as we could not with our instruments measure even lunar distances, and we were not supplied with a chronometer.

From the Lake of the Oaks, I explored the country north 37 miles to latitude 44 degrees 27′ 32″, and thence east to the St. Peter's river, in the same latitude.

In this route I crossed twice going out, and once returning, a small stream bearing to the south, and which I took to be a branch of the Blue Earth river; and, if so, it is the most northerly branch of that river. From the St. Peter's river, I made a circuit to the southward of 57 miles, to return to the Lake of the Oaks, where a portion of the command had remained encamped. Thence I marched nearly due west 38 miles to a river which I took to be the *Big Sioux* of the Missouri. We followed this river down 159 miles to its mouth in the Missouri river, and thence took the nearest practicable route back to Fort Des Moines, crossing on the way the *Little Sioux* river, and several minor streams noted on the map. The features of the country from Fort Des Moines to the upper forks of the Des Moines river are much the same as those of the country bordering this beautiful river below — elevated rich prairie, broken by points of timber, and well timbered ravines extending into it from the river every few miles. The valley of the river often ex-

pands to make bottoms, sometimes prairie and sometimes timber, of one, two, and three miles in breadth, and always of the richest quality of soil. The timber of the Des Moines for this distance is fully equal to the wants of its share of the prairie dividing it from other streams, and will easily supply all of the farms that may be made tributary to the river. After passing the "Iron Banks," the timber falls off very much. The groves are almost all confined to the immediate valley of the stream, are narrowed in width, and frequently the bare prairie borders both sides. The first twenty miles of prairie is elevated, rolling, and dry; the soil is sandy, and much mixed with pebbles, and small fragments of lime and primitive rock. Then comes a series of lakes, many of them connected by slues and straits to form chains, almost impossible to go around or to cross, and extending from the Des Moines to the northward and eastward. This kind of country continues on the river about 35 miles, giving the greatest embarrassment to the traveller, who must frequently betake himself to a raft or ponton wagon to make his progress through it. After this comes a dry country again, very hilly and broken near the river, and back from the river dotted with numerous little lakes that have no connexion, outlet, or inlet. Here there is no timber except a narrow skirting of a few trees at points along the river or on the borders of the lakes, and occasionally a pretty grove in a bend of the river or a peninsula of a lake. There is not for 70 or 80 miles below the source of the Des Moines enough of timber to supply a single row of farms along its border. At the Lake of the Oaks there are many hundred acres of excellent timber; but the country all around it is high and bleak, and looks so inhospitable that it will be many years before any settlement can be led to it. From this point north and east to the St. Peter's, 50 or 60 miles, there is much fine rich prairie, covered with a lux-

uriant grass, easy to march over in any direction, but no timber to speak of. Much the same kind of surface extends west from the source of the Des Moines to the *Big Sioux* river of the Missouri. And here was the first great buffalo range that we had seen — and surely, of all this upper country, these animals could not have selected any more rich, luxuriant, and beautiful for their summer feeding. All of the country from the St. Peter's river to the Big Sioux, in latitude from 43 degrees to 44½ degrees, may be easily traversed by troops, but the commander of a column must not march widely from the timber of the streams and lakes, else he will find himself often encamped without fuel to cook his provisions. The grass is rich and abundant in its season, and the surface is well adapted to the operations of cavalry.

We came to the Big Sioux on the 10th of September, in latitude nearly 44 degrees, and here saw the first Sioux Indians. There were some 20 or 30 of them; and they were much alarmed at seeing us in their country: (see my journal of this date.) They were otherwise careless in every respect, and seemed to be moving along with the buffalo as they were all the same *people*. When we struck this river, it looked large enough to have its source 70 or 80 miles above. The general course of the river from here to its mouth (159 miles) is nearly due south, and it seemed to run all the way in a gentle current of two miles per hour, except at the falls described in my journal, where it breaks through a wonderful formation of massive quartz that crosses it perpendicularly, and over which the river falls 100 feet in 400 yards. The valley of the river is seldom more than a mile broad, but is all of the way of the richest soil, resembling the alluvions of the Missouri. There is but little timber on any part of it — not enough to authorize a full settlement of the valley proper. The general level of

the country back is from 300 to 500 feet above the bed of the river; and it falls off to the valley generally in gentle slopes, until within fifty miles of the Missouri, when the country becomes exceedingly broken, from six to twelve miles back, and the bluffs near the river are frightfully steep, and cannot be crossed anywhere without the greatest difficulty.

Leaving the ugly hills of the Missouri about the mouth of the Big Sioux, and going east, we find a gently undulating surface of country, and cross successively Floyd river, the Little Sioux, and Soldier's river. The Little Sioux is much the largest of these, and is probably more than 100 miles long. All three of these streams are slightly skirted with good timber, but there is none anywhere between them. The prairie is everywhere of the richest soil, except at the crossing of many little deep brooks, with muddy banks, that seldom show timber enough to make bridges over them. Pottowatomies consider the Little Sioux as the northern boundary of their lands, and make great hunts along its course every year, killing elk, deer, and bears. From the waters of the Missouri, we next come in about 30 miles to the upper branches of the Raccoon. Approaching these branches the prairie is flat and wet, and much filled up with marshes and grassy ponds, through which it is difficult to find a practicable route.

After crossing the Raccoon, the country between it and other tributaries of the Des Moines is rolling, dry, and rich, and easy to march over. The Raccoon is about 100 miles long, and runs all the way in a deep narrow valley clothed with the richest of timber. This river is one of the most beautiful of the territory, and will soon induce settlement and cultivation of its borders along its whole length.

From Lizard creek of the Des Moines to the source of the Des Moines, and thence east to the St. Peter's, is a range for elk and common deer, but principally elk. We saw a

great many of the elk on our route, and killed many of them; they were sometimes seen in droves of hundreds, but were always difficult to approach and very difficult to overtake in chase, except with a fleet horse and over good ground. No dependence could be placed upon this game in this country for the subsistence of troops marching through it.

Twenty-five miles west of the source of the Des Moines, we struck the range of the buffalo, and continued in it to the Big Sioux river, and down that river about 86 miles. Below that we could not see any recent sign of them. We found antelope in the same range with the buffalo, but no elk, and very seldom a common deer. While among the buffalo, we killed as many as we wanted, and without trouble.

The geological features of the route are sufficiently noticed in my journal, and nothing very remarkable on this subject was presented.

The only rocks seen in place were, first, a limestone ledge, forming one bank of the Des Moines at the "Iron Banks," where we crossed that river; second, the great bed of granite in the valley of the St. Peter's; and, third, the massive quartz at the falls of the Big Sioux.

I was surprised at meeting with more Sioux Indians. We penetrated their country very far, saw numerous trails and other signs of them, but only came actually in contact with two small roving parties on the Big Sioux; and we came upon these so suddenly that they were forced to meet us. They were much alarmed; approached us with great timidity, and, notwithstanding our assurances of friendship, seemed to wish to get rid of us as soon as possible. They told us there was a trading house down the Big Sioux, where there were also thirty-six lodges of Sioux Indians, all of which was entirely false, as we afterwards ascertained. We must have been seen frequently by other

parties of these Indians, who did not wish to meet us; on one occasion two or three Indians were seen watching us from a distance.

This expedition, together with the almost simultaneous one made by Captain Sumner's company from Fort Atkinson,[10] near the valley of the St. Peter's, and to the north of it, must have produced a great moral effect upon these wild Indians, as showing them conclusively that we can easily throw cavalry enough into the heart of their country to chastise them for any wrong they may do to our people and government.

In regard to the information requested of me by Captain Cram, of Topographical Engineers, in his letter to Colonel Kearney,[11] dated St. Louis, July 25, 1844, on the subject of the extraordinary floods of last summer of the Mississippi and its tributaries, as connected with the subject of alluvial formations, I regret that, for want of time and proper means necessary for making the nice observations necessary to a close investigation of this matter, I will not be able to furnish all the information anticipated and politely desired by Captain Cram.

I furnish, however, with cheerfulness, all of my observations on this subject that I think of any use. The Des Moines river, at the mouth of Raccoon river, rose 13½ feet above its common stage; but it was at this point, and generally above, confined within its proper banks. It did not overflow any of its prairie bottoms, as far as I have observed, up to its extreme source. Its timbered bottoms, being generally lower than the prairie, were, many of them, covered from one to three feet. The earthy deposite in the

10 Fort Atkinson, Winneshiek County, was a military post from 1840 to 1849. To-day it is a town of about 700 inhabitants.

11 Stephen Watts Kearny was Colonel of the First Regiment of Dragoons. He signed his surname without the second *e*, but a great many writers spell it in Captain Allen's way.

timbered bottoms varied with the depth of the overflow, and would not anywhere exceed a half inch in thickness for three feet of overflow. This river, which I traced up carefully to its source, seemed to have risen in proportion to its volume or breadth all the way up.

Thus at the Iron Banks, 100 miles above Raccoon, it had risen 10½ feet, and 100 miles further up it had risen 7 feet; but this river has but few tributaries above Raccoon, and drains a country only extensive in length. It is generally broad and shallow, and much of the country along it being flat and marshy and slow to draw off, it may never rise in height like some other streams of lesser magnitude. The next stream to notice was a small branch of the Blue Earth river, which we crossed in latitude 44½ degrees. This little stream, not more than 20 feet broad and 2 feet deep, had risen out of its banks, which were 8 feet high, and had uprooted willows and shrubs along its borders which had been the growth of years, and deposited them on points projecting into its general course. I observed the same appearance on other little streams in this latitude, and inferred that they had all been much higher this year than for many years previous. When we saw the St. Peter's in latitude 44½ degrees, it also showed signs of an extraordinary rise. It had overflown all of its proper bottoms, and I noticed a deposite of vegetable debris half a mile from its bank, and about 30 feet above its ordinary level. This river, where we saw it, was narrow and swift for its quantity of water, and had scarcely any low bottoms for the expansion of its waters at times of high floods. Here it has broken through an immense formation of *granite rock,* and deposited great masses and fragments of this rock in its valley for many miles below: (see my journal.)

The next river to be noted is the Big Sioux, which we first touched 38 miles east [west] of the source of the Des

Moines, and in latitude about half a degree below our point on the St. Peter's. It had risen about 17 feet, covering all of its bottom lands five or six feet. Great masses of drift wood had been deposited on its low grounds and timbered bottoms but I saw no earthy deposite worthy of note. We followed this river down 159 miles to its mouth, and the rise had been everywhere greater as the stream increased in size. Near its mouth it had partaken of the great rise of the Missouri. And here I noticed water-marks four miles from the Missouri, which I estimated to be at least 25 feet above the ordinary level of that river. The Missouri had been over all of its valley by a great depth; but seeing it only at and near the mouth of the Big Sioux, I did not observe deposites of alluvion worthy of note.

From the mouth of the Sioux to the Raccoon, the streams had all overflown their banks, but had deposited nothing of consequence but driftwood and weeds. The Raccoon had been unusually high everywhere; all of its woodland bottoms were filled with drift wood timber and other vegetable debris, until within 20 or 30 miles of its mouth, after which it appeared, like the Des Moines, to have been confined to its immediate banks. The country of the whole route passed over showed everywhere traces of wonderful rains, and from all that I could observe I am of opinion that the greatest rains occurred above any latitude that we penetrated.

If my journal can give Captain Cram any further information than is here detailed, on the subject of his letter, and which he has politely requested for a most meritorious object, I hope the colonel commanding the department will place it at his service.

FORT DES MOINES, IOWA TERRITORY, *January* 4, 1845.

J. ALLEN, *Captain, 1st Dragoons.*

Colonel S. W. KEARNEY, *Comm'g third military department U. S. army, St. Louis, Mo.*

Journal of march into the Indian country in the northern part of Iowa Territory[12] *in 1844, by company I, 1st regiment of dragoons.*

August 11. Marched from Fort Des Moines in very good order at 10 a. m.; followed the "Oregon trail"[13] three or four miles; then left it to cross the Beaver river, a tributary of the Des Moines; crossed it and encamped on its left bank eight miles from the post. Weather and prairie fair; distance 8 miles; course NW. by N.

August 12. We were detained till 10 o'clock to recover oxen that had strayed during the night. Marched on a narrow dividing ridge between Beaver and Des Moines, the Beaver running close to and nearly parallel to the Des Moines. Encamped at 5 p. m. on a ravine and branch of that river; there were many of these little ravines thrown out from the river on this day's march; they are very deep, and give pure spring water. The ox team is very slow and sluggish, and sticks worse in the mud than the mules; but all the wagons are heavily loaded, and the prairie is soft; it rained hard in the night. Distance 16 miles;[14] course NNW.

[12] The Territory of Iowa included the present States of Iowa and Minnesota and the eastern parts of North and South Dakota.

[13] The main trail to Oregon lay through the State of Missouri via Independence to the Platte River in Nebraska. The movement to the Far West seems to have attracted special interest in Iowa in the spring of 1843. From this time on emigrants from the young Territory of Iowa became an element of strength in Oregon, for the pioneers of that promising country at once adopted almost all the statute laws of Iowa. The emigrants followed the Territorial roads of eastern Iowa (which alone was occupied by white settlers at that date) to Fort Des Moines, the westernmost point of habitation, and from there westward they chose their own course overland through the country of the Sacs and Foxes and Pottawattamies across the Missouri River to the main trail. See also THE IOWA JOURNAL OF HISTORY AND POLITICS, Vol. X, pp. 415, 425.

[14] The party must have encamped in the eastern part of the present county of Dallas. Since all of Captain Allen's route lay through uninhabited country, the counties, towns, and rivers of to-day will be referred to as then existing.

August 13. Started at 7, and soon got on a broad prairie; passed the head of the Beaver[15] about 12, where the prairie expands still more; kept on the west side of the prairie towards the Des Moines; many wet places to detain the wagons; encamped at 5 on a deep and well-wooded ravine; found one bee tree with good honey. Course very crooked, but generally NW. by N.; distance 17 miles.[16]

August 14. Marched at 7, and followed up the Des Moines over much such country as yesterday; made 18 miles NW. by N.; day and night fine. Encamped on Bluff creek,[17] a pretty clear little brook, may be 15 or 20 miles long; tried to get an observation of the pole star, but could not with our little sextant; it is too small for any nice purpose.

August 15. Marched at 6½, and soon left the Des Moines far to our right; prairie large and flat, running up close to the river, where it falls off in a sudden bluff, serrated with deep short ravines, with good springs; passed the forks of the river early in the day; saw there elk, but too far off and too wild to be chased or shot; much sign of game is reported near the river; of elk, deer, bears, and turkeys; encamped at 3 on a ravine and near the river; think we are about the neutral ground.[18] Course NW.; distance 17 miles.

August 16. Started at 7; in five or six miles saw many elk at a distance; one drove estimated at 100; crossed Lizard

[15] This point was doubtless somewhere near the town of Woodward because the head of Beaver Creek is much farther north.

[16] Probably three or four miles south of Moingona, Boone County.

[17] Probably in the northern part of Boone County.

[18] In order to prevent clashes between these two hereditary and irreconcilable enemies the United States government prevailed on the Sioux and the Sacs and Foxes to cede equal shares of a strip of country forty miles wide extending from the Mississippi to the Des Moines. This was called "The Neutral Ground", and became, in part, the reservation of the Winnebagoes in 1840, in which year Fort Atkinson was established among them. Fort Dodge, opposite the mouth of Lizard River, dates from the year 1850.

creek about noon, after going much out of the way to get down to it; the country near it is so rough; encamped at 2½ p. m. on this creek, at a very pretty part of it, on a high bank, with a beautiful prairie all around and extending to the Des Moines; killed an elk and a deer at the site of encampment, and saw others. Course NW. by N.; 10 miles.

August 17. Remained encamped to allow the men to wash, and the teams to rest; killed one deer, coons, squirrels, waterfowls, &c.; this seems to be a fine game country. Lizard creek is a pretty little branch of the Des Moines, clear, crooked, and many ripples; when we crossed it yesterday near its mouth, it was 20 feet broad, 10 inches deep, with current of four miles per hour; it is probably 30 miles long, and its valley, which is narrow and deep, is skirted with timber enough to support farms along each side of it.

August 18. It rained very much last night, making the prairie soft and extremely difficult for the teams; we had to double teams, and also apply the men to draw the wagons through the slues, and these were numerous; worked out far from timber, and did not find a place to encamp till 9 at night, when we struck a deep ravine leading to the Des Moines, the mouth of which is called "Delaware battle-ground,"[19] a place where a party of some 20 Delawares were all killed by the Sioux three years since. Course NW.; distance 10 miles.

[19] Northern part of Webster County. The Indians whom Captain Allen mentions are identified in a report from the Fort Leavenworth Agency, dated September 1, 1842. It reads as follows: "It may not be amiss for me to state here, that a party of sixteen Delawares went out last fall to make a hunt on the neutral ground between the Missouri and Mississippi rivers. While preparing to leave their camp one morning in October, 1841, they were fired on by a large party of Sioux, who had surrounded them; some of the Delawares were shot down. Some of those that escaped the first fire spoke to a Pottawatomie that was with them, and told him to make his escape if he could; that they intended to fight by their wounded friends until they were all killed; so they

August 19. Six horses absent this morning, and were not recovered till 9 o'clock; crossed a little creek, broke a wagon tongue; went on a due north course about 5 miles, when we struck the west branch of the Des Moines at a place called the "Iron Banks;" here we crossed without trouble at a rapid ford, on a bottom of lime rock and primitive boulders; the river was above its meridian height, and was rising; a little below the ford is a limestone ledge of 20 feet height, on the east bank, in their horizontal strata, and much mixed and colored with oxides of iron. Above this point the prairie seemed to change its character, becoming rolling and dry, and much mixed with sand and limestone pebbles; the west branch, where we crossed it, was about one-third the volume of the Des Moines at mouth of Raccoon; encamped on this branch 10 miles above the Iron Banks.[20] General course NW.; distance 15 miles.

August 20. Kept as close to the river as the slopes and ravines would permit, over the same kind of lime country that we met yesterday; in the afternoon struck a sluggish little stream that we attempted to head, and which led us far out into the Big Prairie, and away from timber; encamped at 2 p. m. on a little lake or expansion of this stream, about three miles from the main river.[21] Course NW.; distance 15 miles.

August 21. Made an early start, but found the country

did, and were all killed. The Pottawatomie got home, but was badly wounded. The Delawares say that the Sioux committed this murderous outrage on them without any cause or offence whatever, and they have not attempted to revenge themselves in any way, but that they have a heavy charge against the Sioux: first, for the murdering sixteen men; for all the horses they had with them, riding saddles and pack saddles, guns, traps, blankets, clothing, and camp equipage. All these things the Delaware chiefs requested me to report to you."— *United States Executive Documents*, 3d Session, 27th Congress, No. 2, p. 429. See also p. 419.

[20] West of the town of Rutland, Humboldt County.

[21] On Prairie Creek in southwestern Palo Alto County.

so wet and the slues so numerous, that our progress was slow and difficult; the wagons, being yet heavily loaded, cut deep into the wet ground, and stuck fast in every mire till pulled out by the main strength of the command; the men were all the time muddy and wet, and more fatigued than on any previous day; about five in the afternoon, while we were fast in a mudhole, there came a tremendous storm from the north, with torrents of rain; and night and pitch darkness, with rain, thunder, and cold, found us three or four miles from timber, and unable to go further; there was no firm ground about us, and there we spent the night as we best could, without fire, shelter, or food. Course N.; 15 miles.

August 22. It took all of this day to make six miles through this soft prairie, flooded by the rain of yesterday and last night; encamped at sunset on a pretty little lake 4 miles long and 300 or 400 yards broad, having a rich looking little island near the centre; there are many small groves of fine timber skirting this lake,[22] in one of which we encamped. Course NW.; distance 6 miles.

August 23. Laid still to-day, and sent back to bring up the ox-team that had been left the day before yesterday about 8 miles from here; it could not be moved for the floods of the slues; abundance of swan, geese, and ducks on this lake, and much sign of otter all around it; one of the men shot an elk, but did not get him; killed plenty of fowl, but no fish; I believe the otter frightened the fish from the shores.

August 24. Remained encamped, and got the ox-team in about sunset, much wearied; the weather is now fine, but the prairie is yet flooded.

August 25. Marched at 7; in eight miles struck a large

[22] Medium Lake near Emmetsburg.

grassy slue or prairie stream connecting two lakes; it was 100 yards broad and swimming deep; I was obliged to ferry everything across in the ponton wagon bed, and to swim the horses; this occupied the whole day till dark, when we went on two miles more to reach timber, which was found on a large irregular glassy lake[23] that seems to belong to a chain or series of small lakes, forming, as we suppose, the sources of the west branches of the Des Moines, that we are following up; the timber of this river is seen off to our left about three miles, but cannot be approached nearer by reason of these lakes. Jones, a citizen, employed as a guide, gave up his occupation some days ago; says he knows nothing of this country; was never near so high up, and never heard of such a country as we are now in; so I am guide myself. Course NW. by N.; distance 10 miles.

August 26. We spent the whole of this day in fruitless search of a way to lead us through these interminable lakes; determined finally at night to cross a strait between two of them,[24] and with that object encamped on the south side of it, six miles north of encampment of last night. The grass of this country is tall and luxuriant, remarkably so for so high a latitude, but the whole country is good for nothing, except for the seclusion and safety it affords to the numerous water fowl that are hatched and grown in it. Course N.; distance 6 miles.

August 27. Crossed the strait at the point chosen yesterday; it was 200 yards broad, and swimming all the way; got all over at 2 p. m., and went on eight miles and encamped on the broad prairie, six or seven miles from any timber; we can see timber to the east of us, surmised to be that of the Blue Earth river of the St. Peter's;[25] the surface of the

[23] Either Crane or High Lake, Emmet County.

[24] Swan Lake, Emmet County.

[25] They no doubt saw timber on the East Branch of the Des Moines River.

country is getting more broken and irregular, as though we were approaching the sources of its streams. Course NW.; distance 8 miles.

August 28. Marched early, and sent Lieutenant Calhoun with Jones, the guide, to explore the timber seen off to our right, and thought to be that of the Blue Earth river; they returned to the command about sunset, and reported that they found a lake[26] 7 or 10 miles long, of beautiful character, with bright pebbled shores, and well-timbered borders, having a small stream running into it from the westward, and also an outlet to the eastward, which they followed down about 10 miles, passing in that distance several little lakes or expansions of the outlet, which, when they left it, had grown to a stream, 20 or 30 feet broad, 3 or 4 feet deep, and running with a gentle current in a direction a little east of north; this stream being some distance above the sources of the east branch of the Des Moines, and apparently running to the northward,[27] I infer that it is a branch of the Blue Earth river, else an unknown tributary of the "Big Cedar." Lieutenant Potter was sent to the left to explore the Des Moines, which we had not seen for several days; we had departed from it about seven miles to the eastward. I continued my general course (northwest) and in eight miles came to a lake three miles long and three quarters of a mile broad, clear and pretty, with hard high banks all around it, and heavy timber on the end towards the Des Moines. My course led me to the Des Moines in the

[26] Turtle Lake, partly in Iowa and partly in Minnesota. Captain Allen's geography is uncertain here or else the surface of the country has changed since his day. Nicollet's map is certainly not the modern one. Judging from the distances traveled each day, the party must have reached a point somewhere west of Turtle Lake which is to-day the source of the East Branch of the Des Moines River. Perhaps Iowa Lake is meant. See Winchell's *Historical Sketch of Explorations and Surveys in Minnesota,* p. 80.

[27] This description tallies with Nicollet's map but cannot be accepted to-day.

afternoon, where, in crossing a little stream, I broke a wagon and encamped; the river here shows only little groves of timber at great intervals; is of a reddish muddy color, 30 feet broad, 2 feet deep, with a current of three miles per hour; its valley is narrow, and the bluffs that border it are high, broken, and steep; country passed to-day high and sandy and poor;[28] killed a deer. Course NW.; distance 12 miles.

August 29. The prairie was good, high, and dry all day; encamped on a little lake half a mile long and a quarter of a mile broad, without outlet, 2 miles east of the river.[29] Course NW. by N.; distance 23 miles.

August 30. Marched north five miles to a little lake,[30] like that of last night, that we passed on our left, and continued NNW. seven miles over a wonderfully broken surface, rising and falling in high knobs and deep ravines, with numerous little lakes in the deep valleys, some of them clear and pretty, and others grassy; struck the Des Moines at 12¼ p. m., and followed it up three miles, when the river turned suddenly round to the bluff bordering a ravine; the Des Moines is yet a respectable stream, as though it was 50 or 60 miles longer; I will leave it to-morrow, and try to find it again in a direction W. by N., as I think this great turn to the south is only a great bend out of its natural course.[31] I sent Lieutenant Calhoun to ascend some high bluffs that were seen at a distance on the west side of the river last evening; he reports them to be 150 or 200 feet above the general level of the country, as they seemed to be from our distance; he found on the highest peak an artificial mound of stone, and I found on the east side of the river, five or six

[28] Southeastern corner of Jackson County, Minnesota.

[29] Probably Fish or Eagle Lake.

[30] Bingham or Independence Lake may be referred to.

[31] Cottonwood County.

miles from this peak, a loose stake evidently placed there by white men; I thought it was probably on the route of Captain Boone and Captain Canfield from Fort Leavenworth to Fort Snelling, made some years since, though I could see no other trace of their march. Course NW. by W.; distance 20 miles.

August 31. Spent much of this day in pursuit of elk that we could not overtake; chased and killed a large black bear found out on the prairie; the bear being driven into the midst of the column, made a considerable commotion among the horses and teams, and it seemed as though every man in the command had taken one or more shots at him before he was brought down; encamped at 12½ p. m. on a small lake (two miles long and half mile broad) which is evidently a part of the Des Moines river; I spent the afternoon in exploring the country with a view to determine our future march in search of the sources of the Des Moines and of the Blue Earth river; as the Des Moines seems to extend much further up, I have determined to leave a portion of the command at this point,[32] where they may rest for some days, whilst I shall continue to explore with another portion. Course NW. by W.; distance 12 miles.

September 1. Left Lieutenant Noble and 25 men encamped, and marched with all of the other officers and 25 dragoons, and one team carrying provisions for seven days, in search of the sources of the Des Moines and the Blue Earth river; I had been told that the Blue Earth river was due west from the head of the Des Moines, but I began to suspect that it was further south; I continued to follow up the Des Moines, passing over high prairie hills for 10 or 12 miles, until, from a principal eminence, I saw a large grove of timber, NW. ½ W., 12 or 14 miles off; marched for it,

[32] On the boundary between Murray and Cottonwood counties.

and found it to be the timber of a large irregular lake,[33] from which the river flowed in a good sized outlet of deep water and muddy banks; the lake is about six miles long, but at first resembles a series of small lakes, because of long crooked points of heavily timbered land running into it in all directions; I take this to be the highest source of the Des Moines that is worth noticing as such; it seems to have a little inlet from the northward, but of no size or character. There are many small lakes dotting the prairie as far as we can see, around this large one, all of which are probably drained by the river through the loose sand soil under the surface; encamped on one of these little lakes, a quarter of a mile from the larger one. General course NW. by W.; distance 25 miles.

September 2. Sent a soldier back to Lieutenant Noble with instructions to move his camp up as far as our encampment of last night; and, assuming that I had now reached the source of the longest and most northerly branch of the Des Moines, I took a new course, N. ½ W., with a motive to extend the examination of the country. In the first four miles, we struck a large trail running east and west, which much resembled a dragoon trail, and was thought at first to be that of Captain Sumner's company; but I did not think that Captain Sumner had been so far west and north, and a closer examination led me to suppose it to be a Sioux hunting trail, which had been travelled for years; some of the men thought they found wagon tracks on it, but I could see no sign of this kind, except such as I thought might have been made by the ends of the lodge poles that the Sioux carry on horses with one end dragging on the ground; there were, however, distinct marks of *shod* horses going westward, and it may be that Captain Sumner

[33] Shetek Lake.

marched on it for some purpose. Where we crossed his trail we saw four elk, and killed two of them, one in full chase, and the other running fast after a wound by a still shot. I do not like elk meat; it has a coarse fibre, is unlike the deer, and I think a mule would taste about as well. The ground passed over to-day was generally high, dry, and rich, and the grass good. Encamped near the base of some high mounds, on a little stream[34] running eastward, which is evidently a tributary of the St. Peter's river. Course N. ½ W.; distance 15 miles.

September 3. Marched on the same general course as yesterday; in the early part of the day crossed two trails near together, and both running east and west; on the first we again saw shod horse tracks, which made it appear to most of the gentlemen as Captain Sumner's return trail: it may be so, but I doubt it. On the 18th mile, we struck and crossed a large creek, (twenty feet broad, two feet deep, and current of four miles per hour,) thought to be a branch of the Blue Earth river;[35] encamped four miles beyond it at a small grove of rich land timber, which was nearly surrounded by deep grassy marshes; this is a miserable country, full of swamps, and no timber except in sparse little groves on the borders of brooks and lakes. This will be my furthest point north; to-morrow I go *east.* Course N. ½ W.; distance 22 miles.

September 4. Marched as nearly east as possible for six hours, when we crossed the same stream we crossed yesterday afternoon, but 20 miles lower down; this stream ran NW., and we followed it down five miles when we suddenly came to a large river for this country, which is evidently the St. Peter's river; it is nearly as large as the Des Moines

[34] Probably Cottonwood River.

[35] Either the Redwood River or the northern fork of Yellow Medicine River.

below Raccoon; runs in a deep valley one mile broad, between very high and timbered bluffs; the valley is itself much elevated above the river, and is not what is called bottom land; it is without timber except on the borders of the stream, and is covered with detached masses of granite rock, some of them covering acres; Lieutenant Potter, who was sent to explore the river above as soon as it was discovered, reports that about four miles above, he found high bluffs of primitive rock on both sides of the river, and this is surely the formation from which the valley below has been filled with fragments. We heard two or three shots fired at a distance on the opposite side of the river, and supposed we were near Sioux Indians; but, though we fired in answer to them, and put up rockets at night, no Indians made their appearance. The valley of this river at this place is remarkable, that it continues in a straight line as far as we can see, and with about uniform breadth, with high, very steep timbered bluffs rising from it to the general surface of the country on either side. The river winds through this valley, and may be crossed at rapids without running much into wagon beds, though in most places it would swim a horse, and seemed now to be in medium stage. It is strange that although we are evidently very far in the Sioux country, we have not yet seen a buffalo or a Sioux Indian. This country is too poor, bleak, and broken to attract white men much, but it looks wild enough for an Indian and is remote enough for all large game. Encamped in the valley of the river. Course E.; distance 22 miles.

September 5. Marched down the valley of the river four or five miles with a view to see more of its character, and then to make a circuit back to Lieutenant Noble's camp on the source of the Des Moines; the valley all the way was filled with marsh ponds and the great irregular masses of broken primitive rock before mentioned, making it very

difficult to march along it at all; on leaving it, we rose a very high and steep wooded bluff to the general level of the country; then took a course SW. by S., on which we marched over the prairie 30 miles, and until 8 at night, before we found timber. Encamped on a respectable little creek, which we had encamped on going out, and which we take to be one of the branches of the Blue Earth river.[36] Whole distance to-day, 35 miles.

September 6. Reached the source of the Des Moines and Lieutenant Noble's camp late in the afternoon, after a hard day's march; Lieutenant Noble had reached his present camp two days before, having moved up his detachment from the point where I left it on the 1st instant, agreeably to instructions sent back to him from this point. All the country we have seen, on this trip to the St. Peter's, is of an almost worthless description, being broken, poor, and marshy, and without any timber of consequence; the hills are of a sandy poor soil of lime and primitive pebbles, and the valleys are deep marshy slues, with tall heavy grass; it is a tedious and difficult country for operations of troops, though near the St. Peter's it does not offer many hiding places for the Indians. Distance to-day, 22 miles.

September 7 and 8. Remained encamped on an arm of this pretty and singular lake, and took our latitude from several observations of the sun meridian; made it 43 degrees 57′ 42″. I have not, however, much confidence in the accuracy of our little sextant, and think it probable that our latitude is higher than here shown. This lake is filled with water-fowl, and the camp is stocked with ducks; to-morrow I march west in search of the Big Sioux river.

September 9. The lake that we left this morning is surely

[36] All these streams flow into the St. Peter's or Minnesota River so that it is doubtful whether Captain Allen's party ever really saw the head of the Blue Earth River.

the head of the Des Moines river; we crossed the only inlet it has about two miles above the lake, where it is only a little slue; I do not find any lake on the maps corresponding with this, and I infer that it has not hitherto been explored by any of the map-makers; I have named it the "*Lake of the Oaks,*" from the forests of immense white oak trees that border it and cover its peninsulas.[37] Leaving this lake, our course was NW. by W., on a large, high, level and dry prairie, that seems like the dividing elevation between the waters of large rivers; it divides here the tributaries of the Missouri from those of the Mississippi. This prairie, like all of this upper country, is dotted over with little lakes, though to-day we have seen the timber of only three or four, and have touched only one of them; we passed much sign of buffalo, but have not yet seen the animal. Encamped near sunset on the border of a slue, in the open prairie, there being no timber in sight; the night cold, cloudy, and rain. Course NW. by W.; 22 miles distance.

September 10. Continued our course on the Big Prairie, and in the first eight miles saw three buffalo grazing on an eminence about a mile ahead, the first we had anywhere seen. I halted the command in a depression of the prairie, and, taking some of the officers and men, made a circuit of the animals, and put them in full chase straight to the command, at a halt, and by this means easily killed all three in less than half an hour. Lieutenant Potter killed the first one in full chase by the first shot of his pistol. They were bulls, and rather lean; but being our first buffalo, we took a quantity of the meat. The day was cold, moist, and disagreeable; marched on eight miles further, striking, at 3 p. m., a deep looking river running almost due south, and as broad as the Raccoon at Fort Des Moines. This is evi-

[37] This lake escaped the notice of Nicollet, for it is not shown on the map published in 1843 after his death. Captain Allen probably referred to this map.

dently a river of the Missouri, and we are inclined to think it the Big Sioux,[38] but have some doubt on this; we ought, before reaching the Big Sioux, to have crossed a long stream shown on the maps as Floyd's river; but since leaving the Des Moines, we have not touched or seen such a river. Some Sioux Indians came to our encampment at the point where we struck this river. They composed two or three lodges of a roving band of prairie Indians, who seemed to be wandering here with the buffalo. They approached us with the greatest timidity, two only at first, and then three others; and they, probably, would not have come to us at all, if we had not surprised them in a place where they could not escape our observation. I had no interpreter through whom to speak to them; one of the dragoons spoke a few words of their language, but all he could understand of what they said was, that they lived on the St. Peter's river high up, and that we would find a trading-house on the river we were then on, three days down it. We caught a great many small fish in this river, but buffalo — *meat of the bulls* — seems to be the rage for to-night. The country to-day has been slightly rolling, but good for marching; the grass here is very luxuriant. Course W. by S.; distance 16 miles.

September 11. Last night a heavy white frost, the first that we have experienced; determined to follow down the river, at least to the trading-house spoken of by the Indians, so marched out on the bluffs. In a few miles, killed a lone buffalo bull, and soon after came upon two lodges more of Sioux Indians. They were also much alarmed at our approach, and three men of them, whom we first saw near their lodges on horses, came to us at full gallop, and in great agitation. After I had explained to them, as well as I could, that we were friends, and were traveling through

[38] Probably in Moody County, South Dakota.

their country on a mission of friendship, they seemed much pleased, and the principal man galloped off to his lodge and hoisted a little American flag; and as we passed his lodge, offered us the meat of one or two buffaloes that were curing about his camp. These lodges were on the bald prairie, far from timber, and seem to be only a stopping place to cure and eat the meat they had killed near it. This is surely a fine buffalo country, the prairie is cut up with their trails in all directions, and we have seen many small parties during the day, but, as yet, no large herd. Just before we went into camp, I saw several at a distance that I took to be cows, and allowed some of the men to give them chase. They soon killed four, but all bulls again, and we do not need the meat, except the tongues and marrow-bones. In the afternoon, Jones killed an antelope, and we saw ten more in a short distance among gentle hills of the prairie; I was surprised to meet them in this country; went late down to the river to encamp, and did not get a good site, the timber being very scarce on the borders of the river. 32 miles distance; course SW. by S.

September 12. Twelve horses and mules were missing this morning, and under a strong suspicion that the Sioux had been among them — some known to have been picketed in the best manner are among them. Three of mine, one of Dr. Griffin's, and two of Lieutenant Potter's, are also in the number. I remained encamped all of the day, sending parties in all directions in search of the missing horses, and recovered all except four. Lieutenant Potter and Dr. Griffin and four dragoons are yet out, and will be out all night; it is very unusual for any of the horses to stray from camp at night, at this distance and time from home. Last night was very dark; the horses were picketed in very tall grass, where sentinels could not watch them closely, and I think it very probable that Indians came in and loosened and drove

off all that are gone, and have probably secured some of them. The Sioux are great rascals, and capable of all kinds of theft.

September 13. Sent out a party on our back trail, and marched on down the river. In about twelve miles, came to a great and picturesque fall[39] of the river, where we found Doctor Griffin and Lieutenant Potter and party, who had been searching for lost horses, and encamped here last night; they had seen no traces of them, and had resigned themselves to their loss. Doctor G. and Lieutenant P. were sitting on a rock, and "smoking away their horses to the Sioux," (referring to the Indian custom of giving away horses on a ceremony of smoking.) These falls present a remarkable feature of the river and country; the river, until now, running nearly due south, makes above the falls a bend to the west, and round to northeast, and passes the falls in a due east course, and continues below in a northeast course for six miles, when it resumes its former direction. The rock of these falls is massive quartz, and is the first rock formation, or *rock in place,* that we have seen since we left the St. Peter's river. It crosses the river here north and south, and is not seen elsewhere, the bluffs or general level of the country covering it some 250 feet. The fall, as near as I could measure it, is 100 feet in 400 yards, and is made up of several perpendicular falls — one 20, one 18, and one 10 feet. The rock in the course and on the borders of the stream is split, broken, and piled up in the most irregular and fantastic shapes, and presents deep and frightful chasms, extending from the stream in all directions. There is no timber here on the borders or bluffs, and only a little on a small island at the head of the rapids. After spending an hour or two at these rapids, moved down the river 12 miles, and encamped on a little stream near the

[39] Sioux Falls.

main river. As we were going into camp, saw a herd of more than 100 buffaloes at the site of the encampment, gave them chase, and killed two cows and a calf, which (it being dark when they were slaughtered) were left on the prairie for the night, with the hunters to guard them from the wolves. Distance 24 miles; course SE. The party sent to hunt horses this morning came up at night, found none; so the four yet lost are abandoned — one horse and one mule being public.[40]

September 14. Went a little out of our course to pick up the meat killed last night, and continued over a rough country, much cut up by various and little brooks; encamped at the mouth of one of them, and killed a buffalo bull standing across the river, six men firing at him by volley, and each ball taking effect. Buffalo have been in sight almost always since we struck this river, and we might have killed hundreds by delaying for the purpose. Distance 18 miles; course S. by E.[41]

September 15. Ascended very high bluffs, and marched

[40] Captain Sumner of Fort Atkinson was joined by Captain Allen one year later to make a march to the Sioux villages on the St. Peter's or Minnesota River. In his report to headquarters he writes: "In the summer of 1844, Captain Allen, while on a march in the Sioux Country, lost a government horse and mule, and two horses belonging to officers of his command. These animals were stolen by an Indian. I heard of this man frequently. He had been running about the country boasting of this feat, and I determined to arrest him if possible, as it appeared to me highly important that all Indians should be made to know that the horses of the government, on service in the Indian country, are inviolable, and that they cannot be touched by them without the certainty of punishment at the time, or afterwards. I arrested this Indian at Traverse des Sioux; but as there was no testimony against him, that would convict him before a court, I thought it inadvisable to turn him over to the civil authority. I sent him down to Fort Snelling, requesting Captain Backus to keep him in close confinement until he heard from division headquarters on the subject. I would respectfully refer this case to the commanding general of division. The Indian will not be released till orders to that effect are received at Fort Snelling."— *United States Senate Documents,* 1st Session, 29th Congress, No. 1, p. 219.

[41] This day's route lay through Lyon County, Iowa.

SE. over smooth prairie till 12, then S. W. till 4½ p. m.; at 1 struck a clear little river coming down from the east, which I take to be the stream at the mouth of which the Indians we first met told us we would find a trading house; saw what we supposed to be a party of Indians far to our left, in the forenoon, but it may have been buffalo. Followed down the clear stream, and encamped near its mouth on the main river. We can see no signs of a trading-house here, no trails or appearance of near habitation, and I believe the Indians have lied to us respecting the existence of a trading-house in this country. The little stream, above referred to, is 30 feet broad, 2½ feet deep, and runs three miles per hour; the banks are low, and it runs over pebbles and sand.[42] General course S.; distance 22 miles.

September 16. Crossed the clear stream near its mouth, and again ascended the bluffs, which here are near 300 feet high, and much broken — the breaks running far out from the main river; the obstructions forced us to leave the river far on our right, and made the line of our march very crooked. I sent two men to follow the river as closely as practicable, and look if there were any appearances of a trading-house in the neighborhood. They found none, and so it is demonstrated that the Indians have basely lied and deceived us in this respect, and for what purpose, I am unable to conceive. It is said of the Sioux, that they are prouder of, and more habituated to, lying than truth-telling, and here is pretty good evidence in support of the charge. Encamped on a slue at a bunch of willows far out on the prairie,[43] horses and mules much fatigued; we have not seen any buffalo to-day, nor any fresh sign of them; we are apparently out of their present range. Distance 20 miles; course S. by W.

[42] Rock River, Sioux County.

[43] In Plymouth County.

September 17. Marched SW. to strike the river, and encamped on it at 11 a. m., to rest the horses and get an observation for latitude. The river here is a large stream, larger than the Des Moines, below Raccoon, not quite so broad, but is deeper, and runs more water. It has increased much since we last saw it, (30 miles above,) and must have received tributaries from the west that we could not see for our distance from it. The bluffs here are not so abrupt as above, and the bottoms are broader and more fertile; but the timber of the river does not increase, only a few elms and willows skirting the banks, which are deep and muddy like those of streams near the Missouri. I cannot yet determine what river this may be, whether Floyd's river or the Big Sioux. I shall follow it down further, and see more of its character; and if the season were not so late, I would cross it and explore further west. But my horses are much worn, and the grass and prairie are killed by the frost, and it is incumbent to hurry home. The river here seems to abound in catfish; the men caught 20 or 30 large ones in a few hours with fish-hooks. Distance 10 miles;[44] course SW.

September 18. Continued down the river with the greatest difficulty, having to rise and descend the bluffs, which have increased in height and steepness. After going over several points, fell again into the valley of the river, and soon saw a great opening to the westward, which I at once recognised as the valley of the Missouri. I had not expected to meet that river for 30 miles yet, and was surprised at seeing it here; though as OUR river here only runs into the *valley* of the Missouri, it may yet be several miles to its mouth. Encamped early, on a little brook, to feed on luxuriant pea-vine in its little shaded valley. Course S.; distance 16 miles.

[44] Still in Plymouth County.

September 19. Endeavored to follow down the valley of the river, but could not; it washes the bluffs so often in its bends, we were again driven over the bluffs, which here are 500 or 600 feet high, and broken almost every mile by deep ravines, that, from the heights, look like great chasms in the earth. Of course we had all sorts of trouble, upset one wagon twice, killed one mule, and broke another wagon square off at the hounds. The romance of marching through a wilderness country is much abated. General course S.; distance 10 miles.[45]

September 20. Remained encamped to repair wagons; but, in the meantime, I determined to find the mouth of the river that we had traced so far. Doctor Griffin, Lieutenant Calhoun, Lieutenant Potter, and J. C. Calhoun, jr., volunteered to accompany me, and leaving Lieutenant Noble in charge of the camp, we set out early for this purpose. We encountered bluffs, ravines, vine, valleys, tall grass, and swamp, and plum-bush, and willow thickets, worse than any thing we had seen; but worked our way along, and, in the distance of seven miles, reached really the point where this river unites with the Missouri. It comes to the Missouri in a due south course, and the Missouri meets it perpendicularly, as coming from the west. Both, at their junction, wash the base of a steep bluff, some 500 feet high, and the great river then pursues its general course to the southward and eastward. Opposite to this point, there appears to be a large island of the Missouri, but we could not see enough to know if it were really an island, or a peninsula in one of the great bends of this river. I have learned all I can, now, of the river which we have followed down to its mouth. I shall consider it the Big Sioux, until I shall be better informed. To-morrow I shall march for home by the

[45] Southwestern corner of Plymouth County.

nearest route I can find. It has rained most of the day, and is cold and disagreeable.

September 21. Spent the whole day at hard labor in making ten miles out from the river over these terrible hills; made two bridges across brooks, and encamped at the last one. Course NE.; distance 10 miles.

September 22. The country continues broken, but not so bad as yesterday. Crossed a large creek on our tenth mile,[46] which may be Floyd's river, if that we left yesterday is the Big Sioux. It is slightly skirted with timber, and looks as though it may be 50 miles long — a very pretty, clear stream; crossed two little brooks without any timber, and encamped on a slue. Course E. by S.; distance 15 miles.

September 23. Crossed three little brooks,[47] deep and miry, with a very little timber on their banks. One of these, though almost without current, was generally forty feet broad, and six feet deep; it occupied us two hours to find any thing like a practicable ford. The prairie rises very gently from these brooks, and is easy to travel over. Encamped on the prairie away from timber, but had taken some for cook-fires from the last brook. Course E.; distance 15 miles.

September 24. At 11 a. m. came to the Little Sioux river,[48] running to the SW. It is a clear, pretty stream, as large here as the Raccoon is at medium stage at its mouth; midside deep to our horses; its banks are bordered with narrow groves of large timber, cotton-wood, walnut, oak, &c. We had to prepare the banks for crossing, and then to help some of the weak horses out of the mud at the shore; got all over before sunset, and encamped. Here is the site

[46] They probably marched across the southern part of Plymouth County.

[47] Probably Whiskey and Mud Creeks and the West Fork of the Little Sioux.

[48] Somewhere near the northeastern corner of Woodbury County.

of a large Indian encampment, supposed to be Pottawatomies, who seemed to have hunted extensively on this river about two months ago. Course E. by S.; distance 10 miles.

September 25. Had smooth, easy marching for ten miles, when we crossed a little creek, and in five or six miles further crossed another[49] and larger one, both running toward the Missouri. The west bank of the last was very muddy, and hard to rise, which kept us till night at the stream; nothing but a little willow brush for fire, and it was cold. Course E.; distance 15 miles.

September 26. In 12 miles crossed a creek[50] like a large prairie slue, but running a good deal of water; eight miles more brought us to a stream that I took at first to be Soldier's river,[51] but afterwards thought it might be a branch of the Raccoon, though where we crossed, it was running towards the Missouri. The stream winds in short and abrupt crooks through a deep narrow valley, is thirty feet broad, two feet deep, and runs one mile per hour; is skirted with narrow strips of soft maple, hickory, walnut, &c.; all about us looks like Des Moines country, and not like that drained by the water of the Missouri. It is probable that the small streams we have crossed since we left the "Little Sioux," may unite to form the "Soldier's river" of the Missouri, shown on the maps, and that we have passed it. Encamped on this stream, after crossing. Course E.; distance 20 miles.

September 27. Met another ugly prairie slue at the end of eight miles, which it took three hours to cross, when we came to a country full of marshes and old shallow grass, like that of the Upper Des Moines. Encamped on the

[49] Perhaps Maple River in Ida County.

[50] Probably Boyer River.

[51] This is probably Coon River, since Soldier River begins farther south.

prairie among the marshes,[52] and near an island of timber, that we could not reach for the ugly marsh that surrounded it. The frosts are becoming severe, and the horses are failing fast. Course E.; distance 12 miles.

September 28. Spent the whole forenoon in travelling ten miles to make four on our course; four fifths of the country was marsh, which turned us to all points of the compass. At 12 we reached a small lake,[53] from which an Indian trail, after much winding around the peninsulas of the lake, led us out to better ground, and went on south. Followed it ten miles, and encamped on the open prairie; no timber near us; had taken a little wood from the lake mentioned. Course SE.; distance 20 miles.

September 29. At 12 m. crossed a little creek[54] coming from the NE., and turning south; turned into it at night to encamp, and found it much enlarged by a much larger stream coming in from the west just above our encampment. This seemed to be the west branch of the Raccoon, and we are now on the main branch of that river; the prairie, though somewhat hilly, was easy to march over all day. The bluffs of this stream, where we are encamped, are high and steep; its valley is about a mile broad and well timbered.[55] Course S.; distance 20 miles.

September 30. Started late, everything being tired from the too long march of yesterday. The grass has been so much deadened by the many frosts, that it no longer gives the horses a good subsistence; the horses and mules have failed wonderfully since we left the Little Sioux, though we have walked (on foot) most of the way. Followed down

[52] North of the village of Lavinia, Calhoun County.

[53] Twin Lakes.

[54] Cedar Creek.

[55] At a point just west of Jefferson, Greene County.

the bluffs of the Raccoon on our right, and crossed two small creeks[56] running into it, both running in deep valleys clothed with heavy, good timber. Encamped on the last. Course SE.; distance 12 miles.

October 1. Marched on the dry ridge between Raccoon and Beaver, the timber of both being in sight nearly all the way. Killed a fine bear on the prairie in chase; Sergeant Williams shot him dead on first fire with his carbine from his horse at a gallop. We move slowly from previous fatigue. Encamped on Beaver river.[57] Course SE. by S.; distance 16 miles.

October 2. The route was a little rough, being intersected by ravines both of Raccoon and Beaver; hoped to reach home, but could not from weariness of the teams. Encamped again on the Beaver, near our trail going out. Course SE.; distance 16 miles.

October 3. Struck our trail going out, and followed it home. Distance eight miles. Reached Fort Des Moines at 1 p. m., having marched, since we left the post, 740 miles, and having been absent 54 days.

FORT DES MOINES, *December* 31, 1844.

J. ALLEN,
Captain, 1st Dragoons.

Colonel S. W. KEARNEY,
Commanding third military department, St. Louis, Mo.

True copy:

R. JONES, *Adjutant General.*

MARCH 18, 1846.

[56] Hardin and Buttrick creeks.

[57] The party is now back in Dallas County.

SOME PUBLICATIONS

History of Louisa County Iowa from Its Earliest Settlement to 1912. (Two volumes.) By ARTHUR SPRINGER. Chicago: The S. J. Clarke Publishing Company. 1912. Pp. I, xii, 448; II, 564. Portraits, plates, maps. A majority of the newer histories of Iowa counties which have appeared during recent years are decided improvements over most of the older ones. Especially is this true of Mr. Springer's work. He has spent many years in careful investigation, going wherever possible to original source material, and has corrected many errors and brought to light much new and interesting data concerning Louisa County and vicinity.

The second volume is devoted entirely to biographical sketches of citizens of the county and therefore needs no comment. The first volume deals, in seventeen chapters, with the history of the county. Beginning with geological history, the writer passes on to the story of the mound builders, the coming of Marquette and Joliet to the Illinois Indians in what is now Louisa County, and an account of the various Indian tribes that once roamed over southeastern Iowa. Then follows the establishment and early history of local government, including the establishment of the Territory of Iowa and later the creation of Louisa County itself. Succeeding chapters deal with politics and elections, officers, county finances and taxes, Louisa County soldiers, transportation facilities, courts and lawyers, doctors, and villages and towns.

The arrangement is logical, and the volume is what it claims to be — a history of Louisa County — and not, as so many of the older county histories were, an attempt at a general history of the United States and of Iowa, with a few chapters of scattered historical facts concerning the county.

Proceedings of the Mississippi Valley Historical Association. Volume V. Edited by BENJAMIN F. SHAMBAUGH. Cedar Rapids: The Torch Press. 1912. Pp. 268. The transactions of the Mis-

sissippi Valley Historical Association at the mid-year meeting at Buffalo, New York, on December 28, 1911, and at the regular annual meeting at Bloomington, Indiana, May 23–25, 1912, together with the papers read at the Bloomington meeting, are included in this volume. The papers read at the Buffalo meeting will be published by the American Historical Association. Among the papers in the volume under discussion are the following: *The Settlement of the John Randolph Slaves in Ohio,* by Henry Noble Sherwood; *The Quakers in the Old Northwest,* by Harlow Lindley; *The Western Reserve in the Anti-Slavery Movement, 1840–1860,* by Karl F. Geiser; *The Mississippi Valley in the Movement for Fifty-four Forty or Fight,* by Daniel Waite Howe; *De Soto's Line of March from the Viewpoint of an Ethnologist,* by John R. Swanton; *The Disintegration and Reorganization of Political Parties in Iowa, 1852–1860,* by Louis Pelzer; and *The Battle of Lake Erie,* by Paul Leland Haworth.

Collections of the Kansas State Historical Society, 1911–1912. Edited by GEORGE W. MARTIN. Topeka: State Printing Office. 1912. Pp. xxxii, 569. Portraits, plates, maps. With this volume the name *Collections* has been substituted for *Transactions* as more indicative of the contents. Among the many papers contained in the volume the following may be mentioned: *Some Western Border Conditions in the 50's and 60's,* by Albe B. Whiting; *The West: Its Place in American History,* by John Lee Webster; *Railroads in Kansas,* by O. C. Hull; *The Methodist Episcopal Church, South, in Kansas — 1854 to 1906,* by Joab Spencer; *A History of the Kansas School Fund,* by Charles Hanford Landrum; *A Study of the Route of Coronado Between the Rio Grande and Missouri Rivers,* by James Newton Baskett; *The First Capital of Kansas,* by Henry Shindler; and *Some of the Lost Towns of Kansas,* by George W. Martin. As a frontispiece to the volume may be found a photograph of the splendid new building of the Kansas State Historical Society.

Financial History of Ohio. (University of Illinois Studies in the Social Sciences, Vol. I, Nos. 1 and 2.) By ERNEST LUDLOW BOGART, Ph. D. Urbana-Champaign: University of Illinois. 1912. Pp.

358. This volume, which begins a new series of publications, suggests a field of historical investigation which may well be worked in other States. The monograph is divided into two parts, the first of which deals with financial legislation and administration. The three chapters of this part are devoted, respectively, to the financial and economic history of Ohio; receipts and expenditures, including a study of the budget; and financial administration and budgetary practice.

Part two consists of a history of taxation in Ohio, and the four chapters deal with the general property tax, the history and taxation of banks and banking, the history and taxation of railroads, and business and miscellaneous taxes. The history of taxation in Ohio is thus covered in the space of one hundred and seventy-five pages, a discussion which to say the least could hardly be spoken of as comprehensive. The history of taxation in Iowa, as written by Professor Brindley and published two years ago by The State Historical Society of Iowa, occupied two volumes of nearly five hundred pages each.

AMERICANA

GENERAL AND MISCELLANEOUS

The bi-monthly *Bulletin of the Indiana State Library* for September contains *A Guide to the Study of Conservation.*

The Phases of Progress Toward Peace, by S. C. Mitchell, is a pamphlet published in November by the Maryland Peace Society.

In Memoriam: John Fairfield Dryden 1839–1911, is the title of a recent volume which is a handsome specimen of the book-maker's art.

Leonard G. Robinson's study of *The Agricultural Activities of the Jews in America* has been reprinted from *The American Jewish Year Book.*

Admission to American Trade Unions, by F. E. Wolfe, is a recent number of the *Johns Hopkins University Studies in Historical and Political Science.*

The Court of Arbitral Justice is the subject of a brief paper by

James Brown Scott, which was published in November by the American Society for Judicial Settlement of International Disputes.

The proceedings on the occasion of the *Unveiling and Presentation of the Monument erected on "Dover Green" by the Delaware State Society of the Cincinnati* have been published in pamphlet form.

An address on the subject, *Is Immigration a Menace?,* which was delivered at the thirty-ninth National Conference of Charities and Corrections by Cyrus L. Sulzberger, has been printed in pamphlet form.

War Paper 88 published by the Military Order of the Loyal Legion of the United States, Commandery of the District of Columbia, consists of an article on the *Opening of the Battle of Shiloh,* by Charles Morton.

The October number of the *Bulletin of the New York Public Library* contains a *List of Works on City Wastes and Street Hygiene;* while in the November and December issues may be found installments of a *List of City Charters, Ordinances, and Collected Documents.*

Among the contributions in *The Scottish Historical Review* for October are: *Lord Elgin in Canada, 1847–1854,* by J. L. Morison; *The Scottish Progress of James VI,* by G. A. Sinclair; *The Seafield Correspondence,* by the Earl of Cassillis; and *Jacobite Papers at Avignon,* by R. W. Twigge.

Among the contributions in the October number of *The South Atlantic Quarterly* may be mentioned the following: *The Compromise Tariff of 1833 — A Study in Practical Politics,* by Frederick L. Nussbaum; *Federal Initiative and Referendum,* by Lloyd T. Everett; and *Undercurrents in Present English Politics,* by William Thomas Laprade.

Among the articles in the *Yale Review* for October are: *The Republican Party,* by Samuel J. Elder; *The Progressive Party,* by Herbert Knox Smith; *The Democratic Party,* by Henry Wade Rogers; *Letters of a Roman Gentleman,* by Gamaliel Bradford, Jr.;

The New Science of Geography, by Ellsworth Huntington; and *The Modern Newspaper As It Is,* by A. Maurice Low.

The Presidency in the Pending Campaign, by Samuel Gompers; and *The Horizon of Industrial Democracy,* by F. C. Thorne, are articles in the November number of the *American Federationist.* In the December number Samuel Gompers writes an article entitled *Scientists Sustain Organized Labor's Demands;* and there is a continuation of the discussion by F. C. Thorne above noted.

Proceedings Following Conviction, by Frank L. Randall; *A Progressive Program for Procedural Reform,* by Nathan William MacChesney; *Indeterminate Sentence and Release on Parole,* by Edwin M. Abbott; and *Criminal Procedure,* by William N. Gemmill, are among the articles in the November number of the *Journal of the American Institute of Criminal Law and Criminology.*

According to its usual custom the University of Toronto has issued an annual *Review of Historical Publications Relating to Canada,* the editors being George M. Wrong and W. Stewart Wallace, and the books reviewed being those published in the year 1911. Many of the books reviewed are of interest to students of the history of the United States as well as of Canada.

Discovery of Historic Manuscript of Mexico, by Charles Warren Currier; and *Resting Place of the Remains of Columbus,* by Don Enrique Deschamps, are articles in the *Bulletin of the Pan American Union* for September. In the November number Harry O. Sandberg discusses *Easter Island, the Mystery of the Pacific;* and George Parker Winship tells of *Early South American Newspapers.*

In the August-September number of the *Proceedings of the American Philosophical Society* may be found an essay on the *Treaty-Making Power of the United States and the Methods of Its Enforcement as Affecting the Police Powers of the States,* by Charles H. Burr. This essay won the prize of two thousand dollars offered by Henry M. Phillips and awarded by the American Philosophical Society.

The Right of Secession, by H. J. Eckenrode; *The Maintenance of the Doctrine of Secession,* by H. R. McIlwaine; *The John Brown*

Raid, by Douglas S. Freeman; *Virginia's Position in 1861—Views of All Sections of the State,* by Edwin P. Cox; and *Fort Sumter,* by George L. Christian, are among the articles to be found in the *Memorial Day Annual, 1912,* published by the Department of Public Instruction of Virginia.

Pamphlets published by the American Association for International Conciliation in September, October, November, and December, 1912, respectively, are: *The Relation of Social Theory to Public Policy,* by Franklin H. Giddings; *The Double Standard in Regard to Fighting,* by George M. Stratton; *As to Two Battleships,* consisting of excerpts from the debate in Congress upon the Naval Appropriation Bill; and *The Cosmopolitan Club Movement,* by Louis P. Lochner.

Russian-American Commercial Relations, by John V. Hogan, is an article in the *Political Science Quarterly* for December. *Forestalling the Direct Primary in Oregon* is the subject discussed by James D. Barnett, who points out some of the weak points in the primary and suggests the necessity of adopting the short ballot. *Political Parties in Japan,* by Ernest W. Clement; and *The Courts and the People,* by Thomas Reed Powell, are other articles.

Among the many articles in the *National Municipal Review* for October may be mentioned the following: *Expert City Management,* by William Dudley Foulke; *Ten Years of Commission Government,* by William Bennett Munro; *Municipal Finances and Taxation,* by Edward L. Heydecker; *The Actual Workings of the Initiative, Referendum and Recall,* by John R. Haynes; and *The Actual Operation of Woman's Suffrage in the Pacific Coast Cities,* by Mrs. Charles Farwell Edson.

Political Platforms are discussed by John Kirby, Jr., in the October number of *American Industries.* The same writer has an article on *Tolerance and Consequence* in the November number, where may also be found a discussion of *The Fruitful Policy of Protection,* by Ludwig Nissen; and a brief sketch of *The Constitutional Election in Ohio,* by Opha Moore. *The Supreme Court and Injunctions,* by James A. Emery, is an article in the December number.

The opening contribution in *The Quarterly Journal of Economics* for November is a study of *Agricultural Development in the United States, 1900–1910,* by J. L. Coulter. Other articles are: *Ethical and Economic Elements in Public Service Valuation,* by James E. Allison; *Social Denmark,* by P. Schou; *Fisher's Theory of Crises; A Criticism,* by Minnie Throop England; and *The Origin of the National Customs-Service of England,* by N. S. B. Gras.

The American Journal of Sociology for November opens with a paper on *The Social Origin of Theology,* by Shailer Mathews. Other contributions are: *The Children's Bureau,* by Julia C. Lathrop; *Social Problems and the Courts,* by Roscoe Pound; *Walker's Theory of Immigration,* by E. A. Goldenweiser; *Some Sociological Phases of the Movement for Industrial Education,* by Frank M. Leavitt; and *Patriotism and the Pacific Coast,* by J. N. Bowman.

Four articles appear in *The American Economic Review* for December, namely: *The Definition of Price,* by Frank A. Fetter; *Transportation and Competition in South American Markets,* by H. Parker Willis; *The Impatience Theory of Interest,* by Henry R. Seager; and *Agricultural Credit in the United States,* by E. W. Kemmerer. Among the reports may be found brief notes on *The Final Report of the National Waterways Commission,* by H. G. Moulton; and on *The Federal Corporation Tax on Life Insurance,* by Maurice H. Robinson.

The Constitutional Decisions of the Supreme Court of the United States in the October Term, 1910, are discussed by Eugene Wambaugh in the November number of *The American Political Science Review.* William T. Laprade outlines *The Present Status of the Home Rule Question;* and William Spence Robertson is the writer of a paper on *The Monroe Doctrine Abroad in 1823–24.* The Irish Home Rule Bill, changes in the Constitution of Ohio, public utilities, tax measures of 1912, and vocational education are the subjects discussed in the *Notes on Current Legislation,* conducted by Horace E. Flack.

Trade Unions and Trade Disputes in English Law, by J. G. Pease; *Stare Decisis and the Fourteenth Amendment,* by Charles Wallace Collins; *Law and Liberty,* by W. Jethro Brown; and *Elec-*

tion in Insurance Cases, by John S. Ewarts, are articles in the November issue of the *Columbia Law Review.* In the December number may be found the following papers: *Progress in Reform of Legal Procedure,* by Everett P. Wheeler; *The Law of Privacy,* by Wilbur Larremore; and *Patents and the Sherman Act,* by Edwin H. Abbot, Jr. In both of these numbers may be found installments of Sir Frederick Pollock's study of *The Genius of the Common Law.*

The Balkan Union Against Turkey, by E. Alexander Powell; *The Balkan War: Some Underlying Causes,* by George Freeman; and *The People and the Trusts — The Middleman,* by Albert W. Atwood, are among the articles appearing in the November number of *The American Review of Reviews.* In the December issue may be found *The Militant Democracy of the Balkans,* by Albert Sonnichsen; *France's Way of Choosing a President,* by André Tridon; and *The People and the Trusts — The Captain of Industry,* by Holland Thompson. In the January number James W. Garner discusses *Woodrow Wilson's Ideas of the Presidency;* and Benj. S. Beecher writes on *State Insurance in Wisconsin.*

The Outlook for Industrial Peace is the general topic discussed in *The Annals of the American Academy of Political and Social Science* for November. Among the various papers may be mentioned: *The National Civic Federation and Industrial Peace,* by Seth Low; *A New Industrial Democracy,* by Edward Ewing Pratt; *A Promising Venture in Industrial Partnership,* by Robert F. Foerster; *The Attitude of the Courts Towards Industrial Problems,* by George Gorham Groat; *Education and Industrial Peace,* by Herman Schneider; and *Industrial Peace from the Standpoint of a Trade Unionist,* by John Golden. The supplement to this number of the *Annals* is devoted to a study of *The Reconstruction of Economic Thought,* by Simon N. Patten.

Among the articles in *The Survey* during the past three months are the following: *Politics and Social Work,* by Edward T. Devine; *Pragmatism in Politics,* by Jane Addams; *Humanizing Politics,* by Graham Taylor; and *Some Social and Economic Results of the Revolution in China,* by Earl H. Cressy (October 5); *What is the*

Minimum Wage?, by Arthur N. Holcombe (October 19); *A Modern Lear,* by Jane Addams; *The Game of Law,* by Morris J. Wessell; and *Health and the Nations,* by Ira S. Wile (November 2); *Progress in the New York Court of Appeals,* by Edward T. Devine (November 16); *The Salem Trial,* by James P. Heaton (December 7). Graham Romeyn Taylor is the writer of a series of articles on *Satellite Cities,* installments of which appear in the first issue of each month.

National Waterways: A Magazine of Transportation is the name of a new monthly periodical which made its initial appearance in November, 1912. As the name indicates, the magazine will be devoted to the movement for the development of the inland waterways of this country, and will make its appeal not in a technical manner, but in such a way as to attract widespread, popular interest. Among the articles in the first number may be mentioned: *The Mighty River of the West,* by J. N. Teal; *National Rivers and Harbors Congress,* by Joseph Eugene Ransdell; *Early History of the Erie Canal,* by George Clinton, Jr.; *Waterway Legislation — Past and Present,* by Stephen M. Sparkman; *Glimpse of Panama,* by C. L. G. Anderson; and *The Two Great Canals,* by Hannis Taylor.

Under the heading of *War-time Prisons in Virginia* George Haven Putnam relates some personal experiences in the September number of *Americana.* Here may also be found a brief sketch of *Grant and the Third Term,* by William Hall; and an article on *New York in the Thirties,* by M. H. Gallagher. In the October number, under the heading of *Our Unfought War With England,* may be found some letters on the Trent affair. *"Pap" Singleton, the Moses of the Colored Exodus,* is the subject of a sketch by Walter L. Fleming. The November number contains an article on *Alexander Hamilton and the Grange,* by Josiah C. Pumpelly; a paper on *The Unpublished Letters of Grant,* by William K. Simmons; and another installment of the letters on the Trent affair.

Alphonzo Benjamin Bowers is the writer of a paper on *English Ancestry of American Families,* which occupies the opening pages in *The Journal of American History* for the second quarter of 1912.

Much interest attaches to the biographical sketch of *Edmond Charles Genet,* by Louis Franklin Facio Genet, a grandson of the famous French minister plenipotentiary to the United States. *Travel in the Colonies and Early Days of the Republic* is the interesting topic discussed by W. Harrison Boyles. *The Lexington of the Seas,* by John Francis Sprague; and *Pre-Revolutionary Sentiment in England,* by Carlos Parsons Darling, are other articles. Finally, a beautifully illustrated description of the historical pageant at Taunton, Massachusetts, is furnished by Ralph Davol under the heading of *A Pageant of Patriotism.*

WESTERN

Number fifteen of the *Indiana University Studies* consists of a monograph by Logan Esarey on *State Banking in Indiana, 1844–1873.*

Jay William Hudson is the writer of a study of *The Treatment of Personality by Locke, Berkeley and Hume,* which appears as a number in *The University of Missouri Studies.*

The Newberry Library of Chicago has published a carefully prepared bibliography of *Narratives of Captivity Among the Indians of North America,* which are to be found, either in printed or manuscript form, in the Edward E. Ayer collection in the Newberry Library.

The *Third Biennial Report of the Board of Curators of the Louisiana State Museum* contains, among other things, lists of additions to the collections of the Museum along the lines of archaeology, ethnology, and history during the two years from April 1, 1910, to March 31, 1912.

In the November number of *The Graduate Magazine of the University of Kansas* may be found *A Survey of the State Service Work of the University,* taken from the report of the Board of Regents. In the December number appears a discussion of *The College Teacher in Politics,* by G. R. Wicker.

Earth's Early Ages, by Henry Proctor; *The Towns of Roman Britain,* by H. H. Clifford Gibbons; *Anthropology, Past and Pres-*

ent, by Allen Howard Thompson; and *Mounds of Florida,* by J. O. Kinnaman, are among the contributions in the June-September number of *The American Antiquarian and Oriental Journal.*

Two numbers of the *University of California Publications in American Archaeology and Ethnology* recently published are: *Elements of the Kato Language,* by Pliny Earle Goddard; *The Ethnology of the Salinian Indians,* by J. Alden Mason. Both of these numbers make good-sized volumes and contain numerous plates and illustrations.

The American Museum of Natural History has issued an instructive, illustrated handbook on the *North American Indians of the Plains,* prepared by Clark Wissler. The various chapters deal with such subjects as material culture, social organization, religion and ceremonies, decorative and religious art, language, physical type, and origins.

A monograph on the *Sources of Municipal Revenues in Illinois,* by Lent Dayton Upson, constitutes volume one, number three of the *University of Illinois Studies in the Social Sciences.* The monograph contains seven chapters devoted, respectively, to property taxation; licenses and police fines; gifts, grants, and subventions; revenue from services rendered; municipal industries and property; loans; and summary and conclusions.

The Proposed Commonwealth Service of the University of Oregon, by F. G. Young; and *University Extension and Commonwealth Service,* by Joseph Schafer, constitute two numbers of the *University of Oregon Bulletin* published in September and October respectively. In both cases the service which the State University may render to the people of the entire Commonwealth is clearly outlined. Evidently the University of Oregon is awake to the unlimited opportunities in the field of university extension.

The disturbances in San Diego, California, growing out of the public meetings of the Independent Workers of the World in that city form the background for an address by Harris Weinstock, entitled *Shall Free Speech be Restricted?,* which is published in the October number of *The University of California Chronicle.* The

writer comes to the conclusion that in "the responsibility for the abuse of the right of free speech lies the fullest restraint." In a lecture headed *What is the Matter with the Presidency?*, Thomas H. Reed suggests the desirability of so changing the position and powers of the executive branch of the federal government that a system of ministerial responsibility very nearly approaching the English system will be attained.

IOWANA

The November number of *The Alumnus*, published at Iowa State College at Ames, is devoted chiefly to articles and editorials on the subject of the proposed changes in the educational institutions of the State.

How Canada Regulates Trusts is briefly described in the October issue of *Iowa Factories*. Another topic which receives brief discussion is *Employers' Liability in Cases of Assignment and Garnishment*.

A brief sketch of *The Early History of Instruction in Physics at the University of Iowa*, by C. R. Aurner, has been issued as a supplement to *Contributions from the Physical Laboratory of the State University of Iowa*, volume one, number five.

A System of Industrial Education for Iowa, by A. Marston; and *A New Method of River Improvement*, by Arthur Goldenstar, are articles in *The Iowa Engineer* for October. There is a second installment of the first named article in the November number.

In the October number of *Autumn Leaves* there is begun *A Short Sketch of Church History, 1830–1844*, by Ernest A. Oliver, which is continued in the November number. In both the October and November issues may be found installments of the *Biography of Alexander Hale Smith*, by Inez Smith.

With the exception of an article on the *Ancestry of Joseph Smith*, by Heman Hale Smith, the October number of the *Journal of History*, published at Lamoni, Iowa, by the Reorganized Church of Jesus Christ of Latter Day Saints, is taken up with continuations of biographical and autobiographical material.

Some paragraphs from an address by Professor Jesse Macy on *The Relation of Education to Government* are printed in the October number of *The Grinnell Review.* In the November number *The Grinnell-China Educational Movement* is described and there is a short article on *The University of the Future,* by Albert Shaw.

The Iowa Alumnus for October opens with a sketch of *Alumni in Politics.* J. T. McClintock discusses *Iowa's Medical Progress;* and William Jepson tells of *Medicine Then and Now.* The November and December numbers contain articles dealing with the proposed removal of the College of Engineering from the State University of Iowa.

Good Roads and the Cost of Living is the subject of an address by W. W. Finley, which is printed in the November number of *The Road-Maker* published in Des Moines. Some recommendations by Thomas H. MacDonald are to be found under the heading of *Road Improvement and Automobile Tax.* In the December number there is a brief description of *The Old National Pike Highway.*

A study of the *Historical Background of the Masonic Revival of 1717,* by Joseph E. Morcombe, is begun in the October number of *The American Freemason.* In November there is a discussion of *Secession Among Italian Secessionists,* by Giulio Castelli. *The Writing of Lodge History* is discussed by Joseph E. Morcombe in the December number. In all three numbers may be found papers on the subject of *Jesuitry and Masonry,* by J. W. Norwood.

An Interesting Survey of the Year's Work of the American Bankers Association is presented by William Livingston in the October number of *The Northwestern Banker.* Henry W. Yates offers *A Plan for Separate Reserve Associations.* In the November number C. G. Hurlburt describes the *State Bank Guarantee Law in Nebraska;* and J. N. Dolley enumerates the *Benefits of the "Blue Sky Law" in Kansas.* A. Barton Hepburn discusses *How to Improve Our Monetary System* in the December number.

The *Proceedings of the Eighteenth Annual Session of the Iowa State Bar Association,* edited by H. C. Horack, contains the following papers and addresses: *The Iowa State Library — With Special*

Reference to the Law Department, by A. J. Small; *The Administration of the Parole Law: The Indeterminate Sentence,* by William Berry; *The Judicial Recall,* by C. G. Saunders; *The Spirit of the College of Law,* by John G. Bowman; *The Early Bench and Bar of Iowa,* by John F. Lacey; *American Courts as a Canadian Sees Them,* by William Renwick Riddell; *Some Railroad Problems,* by J. L. Parrish; and *The Constitution of the United States and Canada,* by William Renwick Riddell.

With the October number the periodical which during the previous year had been known as *The City Hall — Midland Municipalities* appeared under the name of *American Municipalities.* Among the contents of this number is an article on *The Public Utility and its Relation to the Public,* by D. L. Gaskill. The November number is taken up with the proceedings and reports of the annual convention of the League of Iowa Municipalities at Sioux City during the last week in September. *Home Rule for Cities and Towns,* by M. F. Donegan; and *Transient Merchant and Peddler's Licenses,* by George T. Reddick, are articles in the December issue.

SOME RECENT PUBLICATIONS BY IOWA AUTHORS

Beal, Foster E. L.,

Food of Our More Important Flycatchers. Washington, D. C.: Government Printing Office. 1912.

Brindley, John E.,

Road Legislation in Iowa (Iowa Applied History Series). Iowa City: The State Historical Society of Iowa. 1912.

History of Road Legislation in Iowa (Iowa Economic History Series). Iowa City: The State Historical Society of Iowa. 1912.

Tax Administration in Iowa. Iowa City: The State Historical Society of Iowa. 1912.

Burdette, Robert Jones,

Old Time and Young Tom. Indianapolis: The Bobbs-Merrill Co. 1912.

Byers, S. H. M.,

A Layman's Life of Jesus. New York: The Neale Publishing Co. 1912.

Chandler, George,

Iowa and the Nation (Revised edition). Chicago: A. Flanagan & Co. 1912.

Chapple, Joseph Mitchell,

The Minor Chord: A Tale of the Middle West in the Early '70's. Boston: Chapple Publishing Co. 1912.

Devine, Edward T.,

The Family and Social Work. New York: Association Press. 1912.

Downey, E. H.,

Regulation of Urban Utilities in Iowa. Iowa City: The State Historical Society of Iowa. 1912.

Work Accident Indemnity in Iowa (Iowa Applied History Series). Iowa City: The State Historical Society of Iowa. 1912.

History of Work Accident Indemnity in Iowa (Iowa Economic History Series). Iowa City: The State Historical Society of Iowa. 1912.

Franklin, William Suddards,

Electric Lighting and Miscellaneous Applications of Electricity. New York: The Macmillan Co. 1912.

Griffith, Helen Sherman,

Letty's Sister. Philadelphia: Penn Publishing Co. 1912.

Hillis, Newell Dwight,

All the Year Round: An Outlook Upon its Great Days. New York and Chicago: Fleming H. Revell Co. 1912.

Hook, Wallace,

A Primer of Agriculture. Packwood, Iowa: Published by the author. 1912.

Horack, Frank E.,

Primary Elections in Iowa. Iowa City: The State Historical Society of Iowa. 1912.

Horack, H. Claude (Editor),

Proceedings of the Eighteenth Annual Session of the Iowa

State Bar Association. Iowa City: Iowa State Bar Association. 1912.

Hughes, Rupert,

Mrs. Budlong's Christmas Presents. New York: D. Appleton & Co. 1912.

Hutchinson, Woods,

The Child's Day. Boston: Houghton, Mifflin & Co. 1912.

McCown, A. B.,

Down on the Ridge. Des Moines: Published by the author. 1912.

McDaniel, Mrs. Clara La Tourette,

Commercial Art Typewriting. Cedar Rapids: Published by the author. 1912.

Nollen, John Scholte (Editor),

German Poems, 1800–1850. Boston: Ginn & Co. 1912.

Norton, Ray,

The Plunderer. New York: Watt Publishing Co. 1912.

Parrish, Randall,

Gordon Craig. Chicago: A. C. McClurg & Co. 1912.

Peterson, Henry J.,

Corrupt Practices Legislation in Iowa. Iowa City: The State Historical Society of Iowa. 1912.

Sabin, Edwin L.,

With Carson and Fremont. Philadelphia: J. B. Lippincott Co. 1912.

Old Four-Toes. New York: Thomas Y. Crowell Co. 1912.

Shambaugh, Benj. F.,

Applied History. Iowa City: The State Historical Society of Iowa. 1912.

Shambaugh, Benj. F. (Editor),

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SOME RECENT HISTORICAL ITEMS IN IOWA NEWSPAPERS

The Register and Leader

The Prairies of Iowa, October 20, 1912.
Early Settlers Tell of Bears in Iowa, October 27, 1912.
Some of the Earlier Meetings of the State Teachers' Association, by C. R. Aurner, November 3, 1912.
First Church Bell Rung in Iowa, November 3, 1912.
News Events Involving Iowans, November 17, 1912.
The Iowa State School Problem, November 17, 1912.
Captain C. L. Watrous Among Early Boosters, by L. F. Andrews, December 1, 1912.
Some of the Buildings of the State University that Alumni Missed, December 8, 1912.
Excitement in Life of Police Surgeon, by Frederic B. Smith, December 8, 1912.
Passing of the Pioneer Water Mill from the Streams of Iowa, by Howard C. Kegley, December 15, 1912.
Early Days on the River, December 15, 1912.
Engineering School, S. U. I., Graduated Famous Engineer Before 1870, December 22, 1912.
Scenes of Early Day on Skunk River, December 22, 1912.
Prairie Fires of Pioneer Iowa, December 22, 1912.
Iowa Woman Who Knew Black Hawk, December 29, 1912.
Sketch of life of L. H. Weller, December 29, 1912.

The Burlington Hawk-Eye

In Old Burlington. (In each Sunday issue.)
How the Iowa Soldiers Upheld the Reputation of Sherman's "Bummers", October 13, 1912.
Notes on People and Events in Iowa History, October 13, 1912.
The Boys I Soldiered With, by W. P. Elliott, November 3, 1912.
The Hell of War, by W. P. Elliott, November 10, 1912.

Humor and Tragedy of the Greeley Campaign in 1872, November 10, 1912.

Historic Sites to be Submerged When Power Dam is Completed, by J. P. Cruikshank, December 1, 1912.

How the Attempt to Impeach Johnson Was Frustrated, December 1, 1912.

HISTORICAL SOCIETIES

PUBLICATIONS

The *Proceedings of the Seventh Annual Conference of Historical Societies,* reported by Waldo G. Leland, have been reprinted from the *Annual Report of the American Historical Association* for 1910.

The New Hampshire Historical Society has issued a beautifully printed and illustrated volume describing the *Dedication of the Building of the New Hampshire Historical Society.*

Two papers in the *Proceedings of the New Jersey Historical Society* for July are: *The First Settlers of New Brunswick,* by William H. Benedict; and *The Settlement and Settlers of Ringoes,* by Aaron S. Laning.

The two chief contributions in *The Medford Historical Register* for October are an account of *The Old Ship-Building Days,* by Elisha B. Curtis; and an historical description of *The Mystic Mansion,* by Moses W. Mann.

In addition to genealogical material the October number of *The Essex Institute Historical Collections* contains the *Journal Kept by Lieut. Daniel Giddings of Ipswich during the Expedition against Cape Breton in 1744–5,* and a continuation of *Salem Town Records.*

Two contributions are to be found in the *Proceedings of the American Antiquarian Society* at the semi-annual meeting held in Boston on April 10, 1912, namely: *Notes on the Almanacs of Massachusetts,* accompanied by a chronological list, by Charles L. Nichols; and *Vitcos, the Last Inca Capital,* by Hiram Bingham.

J. Francis Le Baron presents a *Description of a Stone Ruin in Eastern Nicaragua, with Notes on the Location of Other Ruins in Central America* in the September-October number of the *Records of the Past.* A. L. van Antwerp describes *The University of Mexico;* and Frederick B. Wright discusses *The Evolution of Literature.*

A memoir of *George Augustus Gordon, A. M.,* by Samuel Merrill; a genealogical sketch of *The Early English Shermans,* by Thomas Townsend Sherman; and a continuation of the *Extracts from the Journal of Elder Phinehas Pillsbury of Nobleboro, Me.,* are among the contents of *The New England Historical and Genealogical Register* for October.

J. F. Snyder describes *The Capture of Lexington* in the opening pages of the *Missouri Historical Review.* Other contributions are: a biographical sketch of *Gen. Jo. O. Shelby,* by William P. Borland; an address on *The Province of Historical Societies,* by H. E. Robinson; and a continuation of *Sketches of Livingston County,* by L. T. Collier.

The *Diary of Timothy Ford, 1785–1786,* with notes by Joseph W. Barnwell, is continued in *The South Carolina Historical and Genealogical Magazine* for October, as are also the *Order Book of John Faucheraud Grimké, August, 1778 to May, 1780,* and the *Register of St. Andrews Parish, Berkeley County, South Carolina, 1719–1774,* copied and edited by Mabel L. Webber.

Frank Nash is the writer of a sketch of *The North Carolina Constitution of 1776 and its Makers* which is printed in volume eleven, number two of *The James Sprunt Historical Publications* issued under the direction of the North Carolina Historical Society. The remainder of the number is taken up with a brief study of *The German Settlers in Lincoln County and Western North Carolina,* by Joseph R. Nixon.

The periodical known as the *American Catholic Historical Researches,* which was published by the late Martin I. J. Griffin, has been merged with the *Records of the American Catholic Historical Society of Philadelphia,* the latter name being retained. The first issue since the merger appeared in September; and contains, among other things, a number of letters relative to *The Church in Kentucky,* as well as some *Miscellaneous Excerpts from the Baltimore Archives.*

Traditions of the Papago Indians, by Henriette R. Kroeber; *Negro Tales from Georgia,* by Mrs. E. M. Backus and Mrs. Ethel

Hatton Leitner; and *William Carter, the Bensontown Homer,* by Phillips Barry, are among the contributions in the April-June number of *The Journal of American Folk-Lore.* In the July-September issue may be found *Four Mexican Spanish Fairy-Tales from Azqueltan, Jalisco,* by J. Alden Mason; and *Notes on Mexican Folk-Lore,* by Franz Boas.

The belated June number of *The Quarterly of the Oregon Historical Society* opens with *A Brief History of the Oregon Provisional Government and What Caused its Formation,* by Frederick V. Holman. Robert C. Clark tells *How British and American Subjects Unite in a Common Government for Oregon Territory in 1844.* Then follows a discussion of *John Fiske's Change of Attitude on the Whitman Legend,* by Leslie M. Scott. In the document department may be found *Slocum's Report on Oregon, 1836–7.*

The principal extract from *The Randolph Manuscript* published in the October number of *The Virginia Magazine of History and Biography* consists of the commission to George Hamilton, Earl of Orkney, for the government of Virginia. There are continuations of documents relating to *Virginia in 1676 and 1665–1666,* and of the *List of Obituaries from Richmond, Virginia, Newspapers.* A number of *Letters from and to George Hume of Virginia, Formerly of Wedderburn, Scotland,* may also be found in this issue.

The October number of *The Southwestern Historical Quarterly,* formerly known as *The Quarterly of the Texas State Historical Association,* opens with some *Recollections of General Sam Houston,* by A. W. Terrell. *The Retreat of the Spaniards from New Mexico in 1680, and the Beginnings of El Paso* is the subject of a study by Charles W. Hackett. E. T. Miller writes on the *Repudiation of State Debt in Texas Since 1861;* and there is a fourth installment of *Correspondence from the British Archives Concerning Texas, 1837–1846,* edited by Ephraim Douglass Adams.

Volume twelve of the *Proceedings and Collections of the Wyoming Historical and Geological Society,* which has its headquarters at Wilkes-barré, Pennsylvania, is a book of over two hundred and

fifty pages. Among the contents may be mentioned the following papers: *Central Connecticut in the Geologic Past,* by Joseph Barrell; *Iroquois Pottery and Wampum,* by W. M. Beauchamp; *Echoes of the Massacre of Wyoming,* by Horace Edwin Hayden; who is also the writer of a biographical sketch of *Benjamin Smith, a Soldier of the Revolution;* and *Some Indian Graves at Plymouth, Pa.,* by Christopher Wren.

From Cattle Range to Orange Grove is the subject of a sketch by J. M. Guinn, which appears in the *Annual Publications of the Historical Society of Southern California* for 1912. Historical investigators and students will find special interest in an article on *Hubert Howe Bancroft: His Work and his Method,* by Rockwell D. Hunt. Other contributions are: *The Civic Association as a Factor of Greater Los Angeles,* by Mrs. M. Burton Williamson; *Pioneer Railroads of Southern California,* by J. M. Guinn; *Early Mexican and Californian Relations with Japan,* by James Main Dixon; and *The Gold Placers of Los Angeles,* by J. M. Guinn.

Old Fort Sandusky and the De Lery Portage, by Lucy Elliot Keeler, is an article which opens the October number of the *Ohio Archaeological and Historical Quarterly.* Eugene Ellis Williams describes *The Copus Battle Centennial,* which was celebrated on September 15, 1912. Several old letters are contributed by George Davenport Kratz and published under the heading of *Some Documentary History of Ohio.* Other contributions are: *An Expedition Against the Shakers,* which is a contemporary account written in 1810 by Benjamin Seth Youngs; *The Indian Village of "Cush-og-wenk",* by Thomas H. Johnson; and *The Ohio-Columbus Centennial,* by Osman C. Hooper.

The results of a unique line of investigation by Ben Driftmier are to be found in *The Washington Historical Quarterly* under the heading of *Comparative Study of State Constitutions for Provisions not Found in Our Own.* T. C. Elliott is the writer of a brief sketch of *Walla Walla and Missoula;* while a ride *From Missoula to Walla Walla in 1857, on Horseback* is described by Frank H. Woody. In a letter on *The Whitman Controversy* James Clark Strong states his belief that Whitman "is entitled to all that his friends claim for

him.'' Finally, there is a list of *The Pioneer Dead of 1911.* In the *Reprint Department* may be found several chapters from George Wilkes's *History of Oregon, Geographical and Political,* originally published in New York in 1845.

Internal Improvements in Early Indiana, by Logan Esarey, is a monograph of about one hundred and twenty pages which constitutes volume five, number two of the *Indiana Historical Society Publications.* The first chapter is introductory in character, dealing with the economic situation in the United States from 1816 to 1820 and with conditions of travel in early Indiana. Chapter two has to do with early attempts to build transportation routes, including State roads, the National road, the Michigan road, the opening of rivers to navigation, and the construction of canals. In the third chapter there is a discussion of the era of systematic internal improvements from 1827 to 1840; while the failure of this system is described in chapter four, and the author's conclusions are stated in the fifth chapter.

From the standpoint of American history there is no more important topic than *The National Archives: A Programme,* which is discussed by Waldo Gifford Leland in the October number of *The American Historical Review.* The writer makes a strong plea for a national archives building in which the archives can be adequately cared for and on a plan that will permit expansion to meet the needs of the future. Other articles in this number of the *Review* are: *Legalized Absolutism En Route from Greece to Rome,* by William Scott Ferguson; *The First Levy of Papal Annates,* by W. E. Lunt; *Nonconformity under the "Clarendon Code",* by Albert Cassell Dudley; and *Some Legal Aspects of the Confiscation Acts of the Civil War,* by James G. Randall. Under the heading of *Documents* there is printed the *Diary of Thomas Ewing, August and September, 1841.*

The first number of volume four of the *Missouri Historical Society Collections,* published by the St. Louis society, has appeared. The first few pages are occupied by a biographical sketch of *Januarius A. Macgahan,* written by Walter J. Blakely. Then follows an interesting *Journal of Jean Baptiste Trudeau Among the Arikara*

Indians in 1795, translated and edited by Mrs. H. T. Beauregard. *A Journey Through the Lines in 1863* is described by Mrs. Lizzie Chambers Hull; while Mrs. Hannah Isabella Stagg relates some *Local Incidents of the Civil War.* Roland G. Usher is the compiler of *A Bibliography of Sanitary Work in St. Louis During the Civil War;* Gerard Fowke presents *Some Notes on the Aboriginal Inhabitants of Missouri;* and the closing contribution is a continuation of the *Recollections of an Old Actor,* by Charles A. Krone.

The January and April, 1912, issues of the *Annals of Iowa,* are combined into one number which contains an interesting array of articles. In the opening pages J. P. Cruikshank discusses the *Historic Sites to be Submerged* when the Keokuk dam is put into operation. In an article on *Prominent Men of Early Iowa* Edward H. Stiles presents brief sketches of the lives of George G. Wright and Joseph C. Knapp. The *Earliest Explorations of Iowa-Land* are described by Charles R. Keyes, who seems to hold the rather unusual view that Radisson and Groseilliers were the first white men to see the Iowa country, and that Nicolas Perrot, Father Dablon, and possibly others saw the Mississippi before Marquette and Joliet. In an article on the *Public Archives of Iowa* by C. C. Stiles, may be found an elaborate classification of the documents from the office of the Secretary of State. Some entertaining *Glimpses of Henry Clay Dean, a Unique Individual* are furnished by J. W. Cheney. Other contributions are: *Pioneers of Iowa and of the Pacific Northwest,* by Cornelius H. Hanford; and *An Expedition Across Iowa in 1820,* which consists of a journal of Stephen Watts Kearny.

An interesting discussion of *The Abolition of Slavery in Pennsylvania,* written by Edward Raymond Turner, appears in *The Pennsylvania Magazine of History and Biography* for April, 1912. *Some Additional Information Concerning Ephraim Martin, Esquire, Colonel of the Fourth New Jersey Regiment of the Continental Line* is presented by Edmund J. James. *William Logan's Journal of a Journey to Georgia, 1745,* is concluded in this number. Especially interesting from the standpoint of western American history are the *Notes of a Journey from Philadelphia to New*

Madrid, Tennessee, 1790, contributed by John W. Jordan. It seems probable, however, that New Madrid, the destination of the journey, was in the present State of Missouri, rather than in Tennessee. *The Mother of "Mary, the Mother of Washington",* is the subject of a sketch by Charles H. Browning. William M. Mervine is the writer of a paper on *The Scotch Settlers in Raphoe, County Donegal, Ireland,* which is printed in the July number. *The Itinerary of the Pennsylvania Line from Pennsylvania to South Carolina, 1781–1782,* is taken from a collection of papers of General Anthony Wayne which recently came into the possession of the Society. *Three Letters Written at Bethlehem, Pennsylvania, in 1778,* illustrate some of the difficulties which confronted Moravians and Mennonites of that place in respect to the "Test Oath". Edward Raymond Turner is the writer of an interesting article on *The Underground Railroad in Pennsylvania;* A. R. Beck contributes some *Notes of a Visit to Philadelphia, Made by a Moravian Sister in 1810;* and there are published some *Military Letters of Captain Joseph Shippen of the Provincial Service, 1756–1758.*

ACTIVITIES

Judge A. W. Terrell, who for several years has been president of the Texas State Historical Association, died at Mineral Wells, Texas, on September 8, 1912.

There is some agitation in Mahaska County in favor of the organization of a county historical society. The movement is a worthy one and should receive encouragement from all who are interested in local history.

Professor Andrew C. McLaughlin of the University of Chicago delivered the principal address at the celebration of the one-hundredth anniversary of the founding of the American Antiquarian Society, October 15 and 16, 1912.

Professor John H. Reynolds, Secretary of the Arkansas Historical Association and head of the department of history and political science in the University of Arkansas, is serving as acting President of the University during the current year.

The Ohio Archaeological and Historical Society held its annual meeting on July 26, 1912. The report of the curator and librarian indicates that the Society has been especially active in investigating mounds in Ohio, and that much progress has been made in the compilation of an archaeological atlas of that State. On September 12, 1912, occurred the laying of the corner stone of a new building for the Society at Columbus.

The Pacific Coast Branch of the American Historical Association held its tenth annual meeting on November 29 and 30, 1912, at the University of California. Among the papers read at the meeting were: *The Organization of the Reign of Terror in France,* by H. Morse Stevens; the *Background of Alaskan History,* by Frank A. Golder; *Party Groupings in the Twenty-Second Congress,* by Edgar E. Robinson; and *Some Effects of Inertia on Public Opinion,* by Murray S. Wildman.

The Marshall County Historical Society has been holding monthly meetings. On November 20th Mr. J. L. Carney delivered an address on "John Marshall". At the meeting on December 11th Mr. James B. Weaver, Jr. of Des Moines read a paper on "Jimmy, Poet, Philosopher, and Pioneer". The speaker on January 13th was Mr. E. M. Wentworth of State Center, whose subject was "Does History Repeat Itself?" The Society is flourishing and is creating much interest in local and State history in Marshall County.

The Mississippi Valley Historical Association held its semi-annual session at Boston on December 30, 1912, in connection with the meeting of the American Historical Association. The following papers were on the program: *Side-lights on the Scioto Company — The Early Movement of New England into the West,* by Archer B. Hulbert; *The New England Element in Illinois Politics before 1830,* by Solon J. Buck; *New England and the Western Reserve,* by Karl F. Geiser; and *The Mayflower Compact and its Descendants,* by Lois Kimball Mathews.

The Decatur County Historical Society held its annual meeting at the office of Mr. Stephen Varga in Leon, Iowa, on November 26, 1912. The following officers were elected for the ensuing year:

President, Guy P. Arnold; Vice President, Stephen Varga; Secretary, Heman C. Smith; Historian, Duncan Campbell; Members of Board of Directors, Patrick Griffin, J. W. Harvey, J. A. Gunsolley, and Mrs. Emaline Malotte; Editorial Committee, O. E. Hull, Heman C. Smith, and Duncan Campbell. A resolution was adopted changing the time of holding the annual meeting from the fourth Tuesday in November to the fourth Thursday in June.

The Missouri Historical Society at St. Louis has been made the custodian of a large body of French and Spanish documents, formerly kept in the municipal offices of St. Louis. These documents, most of which appear both in the original and in English translation, consist of deeds, marriage contracts, wills, commercial contracts, and various other papers. Very little use has as yet been made of these documents for historical purposes, but they no doubt contain valuable source material concerning the early French and Spanish settlers in upper Louisiana.

The Department of Historical Research in the Carnegie Institution of Washington is preparing an *Atlas of the Historical Geography of the United States* which will no doubt prove very useful. Professors Max Farrand and Jesse S. Reeves have been assisting in the work. The *Guide to the Materials for American History to 1783, in the Public Record Office of Great Britain,* prepared by Professor Andrews, has been issued. Professor Albert B. Faust will soon go to Europe to make an investigation of materials for American history in Switzerland, Salzburg, and Austria.

THE STATE HISTORICAL SOCIETY OF IOWA

The next volume to be published by the Society will be Mr. Johnson Brigham's biography of James Harlan, which will appear in the *Iowa Biographical Series.*

Dr. John E. Brindley's *History of Road Legislation in Iowa,* a volume of four hundred and twenty pages in the *Iowa Economic History Series,* has been distributed to members.

A volume of nearly three hundred and forty pages on *The History of Work Accident Indemnity in Iowa,* written by Professor E. H. Downey, is ready for distribution. This volume appears in the *Iowa Economic History Series.*

On Thursday, November 7, 1912, Dr. Truman Michelson of the American Bureau of Ethnology, who has spent much time among the Meskwaki Indians in Tama County, was the guest of The State Historical Society of Iowa. In the afternoon at three o'clock there was a Conference-Seminar at which Dr. Michelson led the discussion on the subject, "The Investigations and Researches of the American Bureau of Ethnology Among the North American Indians". In the evening at eight o'clock a reception was tendered to Dr. Michelson, who delivered an address on "The Meskwaki Indians".

The following persons have recently been elected to membership in the Society: Mr. H. G. Bolks, Sioux City, Iowa; Mr. W. J. Ferguson, Des Moines, Iowa; Mr. Henry S. Keables, Pella, Iowa; Mr. W. F. Moore, Guthrie Center, Iowa; Mr. Hal H. Mosier, Wapello, Iowa; Mr. Edward O'Connor, Lone Tree, Iowa; Mr. L. F. Potter, Harlan, Iowa; Mr. S. M. Woodward, Iowa City, Iowa; Mr. A. L. Bakke, Ames, Iowa; Dr. L. C. Cooley, Mason City, Iowa; Mr. B. F. Felt, Jr., Spencer, Iowa; Mr. H. E. Hadley, Nevada, Iowa; President R. A. Pearson, Ames, Iowa; Mr. Lorin Stuckey, Des Moines, Iowa; Mr. Herbert H. Waller, Stratford, Iowa; Mr. R. O. Bagby, Clarksville, Iowa; Miss Eva Burnet, Allerton, Iowa; Mr. D. S. Fairchild, Clinton, Iowa; Mr. Edward Peterson, Stratford, Iowa; Mr. Donald J. A. Ritchie, Chicago, Illinois; Mr. Geo. C. White, Nevada, Iowa; and Rev. D. W. Wylie, Iowa City, Iowa.

The Society will soon distribute the first volume in a new series of publications, entitled the *Iowa Applied History Series.* The purpose of the Society in publishing this series is to furnish legislators, public officials, and the public in general with the results of its researches into the political, social, and economic history of Iowa. Besides the editor's introduction, by Benj. F. Shambaugh, outlining the scope and purpose of "Applied History", the volume contains the following papers: *Road Legislation in Iowa,* by John E. Brindley; *Regulation of Urban Utilities in Iowa,* by E. H. Downey; *Primary Elections in Iowa,* by Frank E. Horack; *Corrupt Practices Legislation in Iowa,* by Henry J. Peterson; *Work Accident Indemnity in Iowa,* by E. H. Downey; and *Tax*

Administration in Iowa, by John E. Brindley. The two papers by Professor Brindley and the one on *Work Accident Indemnity in Iowa,* by Professor Downey, are based upon larger volumes already published in the *Iowa Economic History Series.*

NOTES AND COMMENT

The twenty-third annual meeting of the Iowa Library Association was held at Nevada, October 8–10, 1912.

The American Civic Association held its eighth annual convention at Baltimore from November 19 to 22, 1912.

The second Annual Conference of the Society of American Indians was held at Columbus, Ohio, October 2–7, 1912.

The International Society of Archaeologists held its annual convention at Cincinnati, Ohio, on September 29, 1912.

Professor Andrew C. McLaughlin of the University of Chicago is absent from the country on a leave of absence until September.

Professor Ephraim Douglass Adams of Stanford University, who is an Iowan by birth, is giving instruction at Yale University during the second semester of the present academic year.

The American Society for Judicial Settlement of International Disputes held its annual meeting at Washington, D. C., on December 20 and 21, 1912.

The Iowa Society of Daughters of the American Revolution plans to devote its chief activities during the coming year to the marking of the "Mormon Trail" across the State.

The centennial of the founding of the city of Columbus, Ohio, was fittingly commemorated from August 26 to September 1, 1912, by a series of addresses, parades, dinners, and historic pageants.

Miss Elizabeth H. West, archivist in the Texas State Library, spent the past fall in the City of Mexico in directing the copying of manuscripts relating to the colonization of Texas from 1820 to 1836.

The suggestion has been made that a bronze tablet should be placed upon the Y. M. C. A. building in Burlington, Iowa, to mark the place where the home of Governor John H. Gear once stood.

On November 24, 1912, Mr. Roger Leavitt of Cedar Falls presented to the First Congregational Church of Waterloo a bronze tablet containing the names of the six charter members of that church.

The desirability and practicability of establishing a bureau of municipal and public research in connection with the University of California is being considered by members of the faculty and citizens of Berkeley.

The American Historical Association, the American Economic Association, the American Political Science Association, the American Sociological Society, the American Statistical Association, and the American Association for Labor Legislation all held their annual meetings at Boston and Cambridge from December 27 to 31, 1912.

The Keokuk chapter of the Daughters of the American Revolution has commissioned the well-known sculptress, Miss Nellie Walker of Chicago, to prepare a statue of Chief Keokuk, which when completed will be placed in Rand Park in the city of Keokuk. The statue will be in bronze, eight feet in height, and no pains will be spared to secure accuracy in all the details.

Joseph Eiboeck, one of the German pioneers of Iowa and for many years the editor of the *Staats-Anzeiger,* died at his home in Des Moines on January 8, 1913. Col. Eiboeck was one of the most widely known German citizens in the State. He came to Iowa in 1849 at the age of eleven, and ten years later he began his career as an editor. He served in Company E, 9th Iowa Volunteer Infantry during the Civil War.

The Thirty-fourth General Assembly of Iowa in 1911 made provision of a special Employers' Liability Commission, and the following men were appointed by Governor Carroll to serve on the Commission: John T. Clarkson, W. W. Baldwin, P. S. Billings, J. O. Staly, and J. L. Stevens. Upon the organization of the Commission John T. Clarkson was elected president and Welker Given was chosen as secretary. After making a careful investigation the Commission has submitted to the Governor its report which makes

a volume of two hundred and fifty pages filled with material on the subject of employers' liability. Furthermore, the Commission presents a majority and a minority bill for the consideration of the Thirty-fifth General Assembly.

Announcement has been made of the Third International Congress of Historical Studies, which will be held in London, England, April 3–9, 1913. The first Congress was held at Rome in 1903 and the second at Berlin in 1908. The Congress at London will be divided into sections devoted to such subjects as oriental history, Greek and Roman history, modern history, including colonial and military history, legal and economic history, religious and ecclesiastical history, history of mediaeval and modern civilization, and archaeology.

WILLIAM LARRABEE

William Larrabee was born in Ledyard, Connecticut, on January 20, 1832. He received a common school education and for several years he taught school. Coming to Iowa in 1853 he continued in the teaching profession until 1857, when he became interested in the Clermont Mills of which in time he became the sole proprietor. He later turned his attention to farming on a large scale, and still later he added banking to the list of his business activities.

Mr. Larrabee's political career began in 1867, when he was elected to the State Senate, in which body he remained continuously for eighteen years. In 1885 he was nominated and elected Governor of Iowa on the Republican ticket, and two years later he was reëlected to the same position. His administration, which was characterized chiefly by legislation regulating railroad rates and by strict adherence to the principles of prohibition, is usually looked upon as one of the strongest in the history of the State. Soon after retiring from the office of Governor Mr. Larrabee wrote a book on *The Railroad Question* which won wide recognition throughout the United States.

In 1898 Mr. Larrabee became the chairman of the newly created Board of Control, and occupied that important position until he resigned in 1900. In 1904 he served as president of the Iowa Com-

mission of the Louisiana Purchase Exposition. Throughout his declining years he held a high place in the estimation and affection of the people of the State and he will long be remembered as one of Iowa's foremost sons. William Larrabee died on November 16, 1912.

CONTRIBUTORS

Louis Pelzer, Assistant Professor of American History in The State University of Iowa. Born near Atlantic, Iowa, in 1879. Graduated from Iowa State Normal School in 1901. Principal of Schools, Shelby, Iowa, 1905–1907. Graduated from The State University of Iowa in 1907. Research Assistant in The State Historical Society of Iowa, 1907–1909. Received the degree of Ph. D. at The State University of Iowa in 1909. Professor of History in the Montana State Normal School, 1909–1911. Author of *The Negro and Slavery in Early Iowa;* and *The Origin and Organization of the Republican Party in Iowa;* and *The Election of Francis Gehon in 1839;* and *The History and Principles of the Democratic Party of the Territory of Iowa;* and *The History and Principles of the Democratic Party of Iowa, 1846–1857;* and *Augustus Caesar Dodge,* a biography; and *The History of Political Parties in Iowa from 1857 to 1860;* and *The Scope of Iowa History;* and *The Diplomatic Correspondence of Augustus Caesar Dodge;* and *The Disintegration and Organization of Political Parties in Iowa, 1852–1860;* and *Henry Dodge,* a biography. Editor of *A Journal of Marches by the First United States Dragoons, 1834–1835.*

Louis Bernard Schmidt, Research Assistant in The State Historical Society of Iowa and Associate Professor of History in the Iowa State College of Agriculture and Mechanic Arts. (See The Iowa Journal of History and Politics for October, 1912, p. 593.)

Jacob Van der Zee, Research Associate in The State Historical Society of Iowa. Born at St. Anna Parochie, Friesland, The Netherlands, February 9, 1884. Graduated from The State University of Iowa in 1905. Rhodes Scholar at the University of Oxford, 1905–1908. Author of *Roads and Highways of*

Territorial Iowa; and *Proposed Constitutional Amendments in Iowa, 1836–1857;* and *Amendments to the Constitution of the United States Proposed in the State Legislature of Iowa, 1846–1909;* and *Proposed Constitutional Amendments in Iowa, 1857–1909;* and *The Hollanders of Iowa.* Translator of *The Coming of the Hollanders to Iowa;* and *Diary of a Journey from the Netherlands to Pella Iowa in 1849.*

THE STATE HISTORICAL SOCIETY OF IOWA

ESTABLISHED BY LAW IN THE YEAR 1857
INCORPORATED: 1867 AND 1892
LOCATED AT IOWA CITY IOWA

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S. J. KIRKWOOD
F. H. LEE
W. PENN CLARKE
ROBERT HUTCHINSON
M. J. MORSMAN
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MEMBERSHIP

Any person may become a member of THE STATE HISTORICAL SOCIETY OF IOWA upon election by the Board of Curators and the payment of an entrance fee of $3.00.

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CONTENTS

Forward Movements in Politics Since the Civil War
FRED E. HAYNES 147

History of the Codes of Iowa Law. IV—The Code of 1873
CLIFFORD POWELL 166

An Eminent Foreigner's Visit to the Dutch Colonies of Iowa in 1873 . Translated by JACOB VAN DER ZEE 221

The Capture of General Marmaduke by James Dunlavy an Iowa Private Cavalryman . . THOMAS JULIAN BRYANT 248

Captain Edwin V. Sumner's Dragoon Expedition in the Territory of Iowa in the Summer of 1845 258

Some Publications 268

Americana—General and Miscellaneous 271

Western 282

Iowana 284

Historical Societies 291

Notes and Comment 300

Contributors 302

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FORWARD MOVEMENTS IN POLITICS SINCE THE CIVIL WAR

[Professor Haynes, the author of the paper which follows, is engaged in making a study of the third party movements in the history of Iowa. In order to understand the history of political parties in any given Commonwealth, however, it is necessary to bear in mind the main features of the history of national politics. Consequently, the present paper, which consists of a brief survey of political movements in the United States at large since the Civil War, may be regarded as a general introduction to the history of third party movements in Iowa. It should be stated that this paper was written before the election of November, 1912.— EDITOR.]

The great influence in favor of democracy in this country has come from the West. The experience on the frontier has developed the individual enterprise and sense of personal independence of the pioneers. The margin of free land on the frontier has formed an outlet for the more adventurous. Hence the West has been the seat of democratic ideas. The demand for more money — paper or silver — had its home on the frontiers of successive periods from 1783 to 1896. The Populists had their greatest strength in the newest regions of the Far West. The demand for tariff reform has come from the West chiefly and the "standpatters" have been the manufacturers and business men of the East. Agitation about the trusts has had its strongest support from the West.

Economic conditions and American democracy have acted and reacted upon each other throughout our national history. Early democratic manifestations appeared in Berkshire County in Massachusetts in the years from 1775 to 1780 in the contest over the formation of a constitution for the State. Berkshire County on the extreme western

frontier of the State opposed the plan of the old and wealthier parts of the State to continue for a time the form of government inherited from the period before independence. It demanded immediately a new instrument based upon the consent of the people. The more conservative classes urged the postponement of the work of constitution-making till the end of the war. But the democrats of Berkshire stood their ground till they forced compliance with their demands by almost open rebellion and threats of secession. The line of division was an economic one — the conservatives were the well-to-do of the older communities, the radicals were the poor farmers on the frontier.

The same line of division appeared in the contests over the ratification of the federal Constitution in Massachusetts in 1788. On one side were the ministers, the lawyers, the judges; on the other were the small farmers, the petty traders, and the inhabitants of the back-country villages and towns. The hostility of the latter was directed not so much against the Constitution as "against the men who made it and the men who praised it. They were sure some injury was plotted against them. They knew the system was the work of the ambitious and the rich." "These lawyers", exclaimed one of their representatives, "and men of learning and moneyed men that talk so finely and gloss over matters so smoothly to make us poor, illiterate people swallow down the pill, expect to get into Congress themselves. They mean to be the managers of the Constitution. They mean to get all the money into their hands and then they will swallow up us little folk like the great Leviathan; just as the whale swallowed up Jonah."[1]

The Berkshire Constitutionalists and Anti-Federalists were the fore-runners of the later Republicans who rallied around Jefferson. These divisions mark the beginnings of

[1] McMaster's *History of the People of the United States*, Vol. I, p. 477.

the party system in the United States. Party names and platforms have changed, but the fundamental differences have continued. The Whigs succeeded the Federalists and they in turn gave way to the Republicans. The Democrats are the direct descendants of the Anti-Federalists and the Republicans of Jefferson's day. The sentiments of 1788 sound strangely like those of the campaign of 1896. Differences based upon economic and industrial conditions determined on which side people should range themselves. We are more familiar with the difference based upon constitutional opinions. But the real explanation of that difference is to be found in economic and industrial conditions — at the foundation the dividing line in our politics has been and is an economic one.[2]

The early differences between Hamilton and Jefferson were in reality largely influenced by economic considerations. Hamilton was familiar with the commercial interests of New York and New England and appreciated the necessity of getting the support of those interests for the new government. Jefferson had grown up under the conditions of the South where agriculture was the chief interest. Hamilton's supporters, the Federalists, insisted upon the necessity of conservative financial policies, including a funding of the public debts, a regulation of the currency, and the establishment of a national bank. Jefferson and his party, the Republicans, opposed these plans and declared that Hamilton's strong government was dangerous and would develop into a monarchy.

The two most striking features of Jefferson's administration, the Louisiana Purchase and the Embargo, were opposed by the Federalists especially because of economic reasons. They feared population and prosperity would be drawn away from the older parts of the country to the new

[2] Ghent's *Mass and Class*, pp. 24, 25.

regions of the West. The Embargo struck directly at the chief interest of New England, its commerce and trade. The Federalist ship-owner saw ruin staring him in the face. Hence his hatred for Jefferson. Jefferson himself seems to have believed thoroughly in the wisdom of the Embargo — a belief to be explained by his lack of knowledge of commercial affairs. His purchase of Louisiana, on the other hand, was in direct defiance of his ideas in regard to the nature of the Constitution. His understanding of the needs of the frontier regions enabled him to appreciate the importance of the control of the Mississippi River as the Federalists of New England did not. He was anxious, however, that his violation of the Constitution should be ratified by an amendment. It is curious that what seemed to be a wide departure from democracy in the beginning should have led later to a great extension of democracy. The growth and settlement of the Far West has resulted in a far greater development of democracy than was ever dreamed of by Jefferson himself. Had he lived to witness that development, he might have urged that the results justified the means.

The democratic influence of the new West was first felt conspicuously in national affairs in the contests for the presidency in 1824 and 1828. Adams represented the conservative, commercial interests of the East, while Jackson personified the new democracy of the West of his day, just coming to political consciousness. The ideas of the Berkshire Constitutionalists and the Anti-Federalists had found a new and larger field in the West. Adams, an ideal President, was accused of aristocracy and of corruption. The new democracy wanted a man of the people — one of themselves — in the White House, and Jackson was swept into office on the top of this democratic wave.

The Spoils System came in with the attempt to sweep

out of office every supporter of Adams and every opponent of the people. Then followed the war on the National Bank, an institution in league with the moneyed and business interests that were felt to be hostile to Jackson and the people. The "money power" in changing forms seems to have been an object of attack on the part of the radicals throughout our history — it appeared in 1788, in 1828, and again in 1896.

The rise of a new democracy requires some further comment. We are supposed to have had a perfectly democratic government in the United States ever since 1776. But during the early years of the Republic the government was in the hands of the aristocracies of Virginia and New England. While theoretically sovereign, the people were "deferential" enough (to use a phrase of Bagehot's) to allow the control of affairs to remain in the hands of their superiors in birth and position. The first serious change of attitude came with the accession of Andrew Jackson to power. The great middle class, so called, the people with no pretensions to birth and no inherited wealth, were gradually roused to a point where they demanded a voice in public affairs. From 1830 to 1865 large classes, before indifferent or unable to exert an influence, began to take an effective part in governmental affairs. All property qualifications were swept away. Officials, formerly appointed, were made subjects for election directly by the people. Even the judges came to be elected in the same way and for limited terms. State constitutions were changed in accordance with the new democratic ideas. Legally there was a government by the people in a completer sense than had ever existed. This new democracy naturally turned its attention to slavery which came to be a subject for discussion after 1840. As a matter of course it became anti-slavery. The new anti-slavery democracy of the West

reinforced the moral and religious leaders, Garrison, Phillips, and Whittier, who in the East were denouncing slavery. In fact, the real decisive battle with slavery was fought and won on the plains of the West. Without the West, the issue might have been doubtful. With nine free States in that section added to the free States of the East, the victory for freedom was assured. The Civil War and the abolition of slavery mark the crest of the democratic wave in the United States.

The great industrial development since the Civil War has had an anti-democratic influence. The small employer, working with his men, has given place to the great factory or mill with its hundreds of hands. The captain of industry has come to be the most striking feature of modern business and the individual worker has shrunk into insignificance. Autocracy in industry has replaced the comparative democracy of earlier times. The trust is only the latest manifestation of the autocratic tendency in industry. Side by side with political democracy there has developed one-man rule in industry. It was inevitable that this development should react on government and law. The business man's influence in politics has been for the most part hostile to democracy. The business man wants a safe, conservative government that will not interfere with the use of the most effective business methods. He finds it more convenient to deal with a boss in a given community than with the members of the local legislature. It is simpler and surer in its results. Much of our political corruption is due to the business man's liking for the shortest way to his object. It also makes clear in a suggestive way the business man's loss of faith in democracy. He has little confidence in the soundness of real democratic government. He thinks it safer to pay for what he wants.

The recent "progressive movement" has manifested

itself in two main forms: (1) in warfare against political bosses; (2) in discontent with social and industrial conditions. In reality these two issues are one. They are the result of the relations that have grown up between politics and business. The political boss seems to be a necessary factor in the conduct of business on a large scale. He is the logical development of business conditions in which special privilege plays an important part. The political boss and special privilege corporations are typical features of present-day industry. Consequently the "progressive" aims at their elimination. The direct primary, the referendum, and the recall are the means by which he is trying to regain control of the government. The regulation of railroads and corporations is merely the other side of the same problem. We are beginning to realize that the task that "confronts every modern nation is how to make the great industrial, commercial & financial forces the servants and not the masters of society."[3]

To understand present-day conditions and tendencies we must go back to the Civil War. The succession of third parties from 1872 to 1896 — the Greenback, Granger, Free Silver, and Populist parties — were the expression of repeated efforts on the part of the democratic citizens of the West to assert themselves against the prevailing characteristics of the industrial and social development since the Civil War. Often shortsighted and visionary in their specific remedies, these leaders of the people were fundamentally sound in their opposition to the growing power of plutocracy. Their instincts opened their eyes to features in the contemporary development that were not discovered for many years by the people in the older parts of the country. Read the platforms of these parties and you will

[3] Hobhouse's *The New Spirit in America* in *The Contemporary Review*, Vol. 100, p. 3.

find many of the planks that are now prominent in the proposals of the Democratic and Republican parties. These shortlived parties represent *forward movements* in the development of government of the people, for the people, and by the people, rather than the outbursts of fanatical reformers, based upon the imaginings of poorly balanced minds.[4]

From 1866 to 1878 there was an almost constant controversy in regard to the greenbacks issued during the Civil War. One group urged retirement as soon as possible. Another group believed retirement a mistake and the cause of falling prices and business depression. They urged the use of greenbacks as a permanent part of the currency. The issue cut through party lines. Among the Republicans many favored the continued use of greenbacks, while the Democratic party was thoroughly permeated with the idea.

Congress first authorized gradual retirement, then forbade retirement and later passed the Inflation Bill. After the veto of that bill by President Grant, Congress passed the Resumption Act. Finally, in 1878, further retirement was forbidden and the amount in circulation at the time was made permanent.

The first expression of the Greenback view as a national political issue was in the platform of the Labor Reform party adopted at Columbus, Ohio, on February 22, 1872. After the crisis of 1873 and the trade depression that followed, the "Greenback movement" assumed large proportions. A national party, the Independent National or Greenback Party, was formed at Indianapolis, May 17–18, 1876. Two hundred and thirty-nine delegates from nineteen States were present. The platform demanded (1)

[4] Turner's *Social Forces in American History* in *The American Historical Review,* Vol. XVI, pp. 217–233.

immediate repeal of the Resumption Act and the abandonment of the policy of contraction, (2) declared notes issued by the government the best circulating medium and demanded suppression of "bank paper", (3) declared the "paramount duty of government to keep in view full development of all legitimate business", (4) protested against the further issue of gold bonds for sale in foreign markets, (5) objected to the sale of government bonds for the purchase of silver as substitute for currency, as it would enrich silver-mine owners and burden "an already overburdened people".[5]

The Greenbackers nominated Peter Cooper of New York and Samuel F. Cary of Ohio for President and Vice-President. Eighty-one thousand seven hundred and forty votes were cast for these candidates. Of these, five States, Illinois, Indiana, Michigan, Iowa, and Kansas, furnished nearly 65 per cent — 52,603 out of 81,740. In 1880 the party broadened its platform to include industrial issues, and nominated James B. Weaver of Iowa and B. J. Chambers of Texas. Three hundred and eight thousand five hundred and seventy-eight votes were cast for these candidates. Each of the five States just mentioned increased its vote and two States, Missouri and Texas, contributed 35,000 and 27,000 votes — altogether nearly two-thirds of the votes cast for the Greenback candidates came from seven western States. In 1884 the party nominated B. F. Butler of Massachusetts and A. M. West of Mississippi. These candidates received 175,365 votes. In 1888 the party gave way to the so-called Union Labor party. It had been absorbed into the agitation for free silver and other radical issues of the day.

The years following the Civil War saw a great development of the then Far West — the Upper Mississippi Valley.

[5] McKee's *National Conventions and Platforms of all Political Parties*, 1789–1900, pp. 174, 175.

The demand was for railroads to open up the country. The speculative spirit of the period favored it. The natural result was that railroads and population went West too fast, while debts piled up in an inflated currency. There was little traffic except in grain. Prices began to fall as a result of the increased production. Transportation charges remained unchanged. The railroads began to appear as obstacles between the farmers and their eastern markets. The ownership of most of the stock of the railroads gave color to talk about "absentee ownership". Moreover, the railroads were not always wisely managed. They felt the pinch of hard times and were compelled to fight for traffic at competing points, while they charged all the traffic would bear where there was no competition. As a result, the "farmers' movement" became one *against* the railroads.

The agitation, usually known as the "Granger Movement", first attracted the attention of the country in Illinois. The new State Constitution of 1870 declared that railroads were "public highways" and demanded laws "establishing maximum rates". The next year the legislature passed an act establishing maximum rates and making provision for a commission to regulate the railroads. Judge Lawrence of the State Supreme Court declared this law unconstitutional, and at the next election he was defeated by a combination of farmers. By 1874 seven States had passed similar laws. Later the laws were tested before the Supreme Court of the United States. The Court declared in the case of *Munn vs. Illinois* that when "one devotes his property to a use in which the public has an interest, he, in effect, grants to the public an interest in that use, and must submit to be controlled by the public for the common good, to the extent of the interest he has thus created." Much of the Granger legislation worked badly and was later modified considerably. But public control of railroads was

established, many abuses were corrected, and to this movement we owe the State railroad commissions and the Interstate Commerce Commission.

The demand for free silver was first heard about 1876. The silver dollar had been dropped from the list of legal tender coins in 1873. Just at this time the greenback controversy was practically settled by the passage of the Resumption Act. Changes in the value of silver attracted the attention of the people, who felt that the currency was responsible for many of their ills. These changes came at the same time as did the demonetization of silver by several European nations and the discovery of new mines in the West. Ignoring the latter influence, the popular mind fastened upon the legislative action as the chief cause of the fall in the value of silver. The Act of 1873 became the "Crime of 1873", and free coinage of silver at the ratio of 16 to 1 became the watchword of large numbers whose constant demand for many years had been for more money to carry on the business of the country.

The Compromise Act of 1878 did not check the agitation. After twelve years another compromise yielded more ground, but still failed to satisfy the demands of those who believed that free coinage would be a panacea for all their troubles. The crisis of 1893 brought things to a point where further compromise was seen to be impossible. The purchase clause of the act of 1890 was repealed after a desperate struggle, and the final settlement of the long controversy came as a result of the famous campaign of 1896. The Currency Act of 1900 registered the result in a legislative way.

The name "Granger Movement" is applied to the earlier farmers' movement during the years from 1870–1880. A later "farmers' movement" has come to be known as the "Populist Movement".

Organizations of farmers were formed in the West and South between 1880 and 1890. They grew gradually and entered into combinations until in 1890 they were ready to act in a national campaign. In the congressional and State elections of that year, they exerted so great an influence as to startle the country. They elected governors in Georgia, Texas, South Dakota, and South Carolina, carried State tickets in Kansas, Nebraska, and South Dakota, and also elected a number of Congressmen.

These successes encouraged the advocates of independent political action. A call for a national convention was issued, and at Cincinnati in May, 1891, the Peoples Party was formed. Arrangements were made for another convention in 1892 to nominate candidates for President and Vice President. This convention met in Omaha in July, 1892, and nominated J. B. Weaver of Iowa and J. G. Field of Virginia. The platform contained the following points: (1) free coinage of silver, (2) government paper money in place of bank notes, and the increase of the amount in circulation to $50 per capita, (3) opposition to the issue of bonds, (4) postal savings banks, (5) a graduated income tax, (6) government ownership and operation of railroads, telegraphs, and telephones, (7) reclamation by the government of all lands held by railroads, corporations, and aliens in excess of actual needs and their opening to settlement. In the election that followed 1,041,028 votes were cast for the candidates, giving them twenty-two votes in the electoral college, and dividing these votes for the only time since 1860 among three candidates.

The successes of the Populist Party in 1892 gave it a position that no other third party has occupied since the Civil War. Its representation in Congress was considerably increased. Its influence was made greater by the effect of its victories over the two old parties. Both were anxious

to conciliate the new power. This "permeating" influence was the strongest positive force exerted by the new party. Through it, its representatives affected legislation in a much greater degree than they could have done directly. "It was merely a question of time", declares one student of the period, "until the Republicans or Democrats would admit its principles in order to absorb its strength. That it should capture the Democratic organization rather than the Republican may be looked upon as a political accident."[6] Such an outcome was made easier by the disappearance of vital issues between the parties. Before the election of 1892 Populist leaders tried to get the consent of Judge Walter Gresham, a leading Republican, to be their candidate for President. He afterwards became Secretary of State in the Democratic administration of President Cleveland. We have, therefore, an instance of a prominent Republican asked to be a candidate of the Populists, and actually becoming premier under a Democratic President. Such a case could only happen as a result of the lack of real issues.

The nomination of Bryan in 1896 and the adoption of free coinage as a party issue by the Democrats marks a new period in our political life. Economic issues, instead of battling for recognition through new or third parties, have conquered the attention of the two great parties and have captured one of them. The years since 1896 have been occupied with the efforts of these parties to deal with the issues forced upon them. Bryan's capture of the Democratic party has been followed by Roosevelt's attempt to transform the Republican party. The Insurgents represent the same forces at work in our political life.

The nomination of Bryan by the Democrats in 1896 was the most dramatic event in our politics since the Civil War.

[6] Wildman's *Money Inflation in the United States*, pp. 195, 196.

He had served in Congress from 1891 to 1895, where he had made a reputation as an orator. After his retirement, he was connected with a Democratic newspaper in Omaha, and engaged by the silver miners in their agitation through the South and West. His strength rested upon his ability as a speaker rather than upon his knowledge of the money question.

The Democratic convention met under very difficult conditions. The West and South were heavily in debt. Colorado and other far western States were seriously affected by the great decline in the price of silver. Coming to the convention at the head of a contesting delegation from Nebraska, Bryan stirred the assembly by the same kind of a speech that he had been using in the silver propaganda. The convention broke away from the control of the regular party leaders and nominated him on a free silver platform. He made a marvellous campaign, and, in spite of the fact that the eastern Democrats, led by the Cleveland administration, refused to support him, and nominated candidates of their own, lost only by a margin of about half a million in a total popular vote of over thirteen millions. The electoral vote was less evenly divided. Bryan carried all the States south of Virginia and Tennessee and all west of the Mississippi River except Iowa, Minnesota, North Dakota, Oregon, and California. The sectional character of the vote is noteworthy, and indicates the continued existence of a radical sentiment in the West such as has been referred to in connection with the third party movements. That influence in 1896 was given chiefly to Bryan.

His renomination in 1900 proved that he had the gift of leadership. The accidental issue of 1896 had given him his opportunity. His retention of the leadership during the intervening four years showed his possession of something more than mere oratorical ability. Again in 1900 his cam-

paign was a difficult one. The Spanish War gave rise to "imperialism" as an issue. Bryan gave it first place in his platform. It was apparent that the people were not enthusiastic over the retention of the Philippines, but there seemed to be no other solution of the problems growing out of the war. In addition, Bryan made opposition to the trusts his second great issue, and also insisted upon free coinage as firmly as in 1896. The return of prosperity made people less inclined to change. The result was a gain for the Republicans and a loss for the Democrats. Bryan gained Kentucky, but lost Kansas, Nebraska, South Dakota, Utah, Washington, and Wyoming.

His strength was again effectively shown in 1904, when he refused to be a candidate, and allowed the conservative Democrats of the East to name a candidate. In the convention, according to the testimony of independent observers, he was by far the most impressive figure, and he compelled the conservative leaders to accept his revision of the platform. The results of the campaign showed conclusively that the radicals were stronger than the conservatives in their appeal to popular support.

In 1908 there was general agreement that Bryan was the only possible candidate. Many leading Democrats, who had formerly been opposed to him, openly declared their support. On his return from a trip around the world in 1906, he was given a great reception in New York, and his nomination two years later was conceded. The outcome was an increase of 1,315,211 votes over the number cast for Parker in 1904, but a falling off of 109,743 votes compared with that of 1896. What is the explanation of such a result of twelve years' campaigning under circumstances that seem to indicate increased and confidential support by his own party and greater respect on the part of the public generally? The answer is to be found by an analysis of his

policies and a consideration of his significance as a leader.

"Bryan makes a strong appeal to the moral sense of his sympathetic hearers. He does not make his protests effective with men who think clearly for he offers no practical remedy." He declares that elections are won by the use of large campaign funds. These funds come from our great business interests. Our parties and public men are under obligations to them, and they pay their obligations by tariff favors and other kinds of special privilege. We are now convinced that there is only too much truth in his statements, but we are not clear as to the best course to pursue to change conditions. People accept his seriousness and his devotion to the average man, but they distrust a judgment that has failed to find sound remedies for the evils it has truthfully described. As a result we have his rejection as a presidential candidate, while his reputation as prophet and preacher has grown immensely.[7]

The succession of Theodore Roosevelt to the presidency in 1901 marked the advent to national leadership of the most interesting and influential personality since Lincoln. He announced his intention of continuing the policy of his predecessor, but it was soon apparent that a new spirit had been introduced into our political life. He began a campaign against the trusts in 1902 by a series of speeches delivered in important cities. The policy of appealing from Congress and the politicians to the people, used so effectively by him, was invoked thus early. The immediate result was the establishment of a Bureau of Corporations as a part of the new Department of Commerce and Labor in 1903. The great coal strike of 1902 gave him another opportunity to use his influence in the interests of the people against a great natural monopoly. In 1904 came his election in his own right to the office to which the act of an assassin had

7 *The World's Work*, Vol. VII, p. 4504.

brought him. His great personal popularity, set over against the colorless candidacy of Parker, resulted in a great popular endorsement.

His second term was even more noteworthy in its achievments and in its influence upon popular opinion. It is no exaggeration to say that a revolution in policy and opinion had been accomplished by its close. In 1905 he took up the problem of railroad regulation. Defeated in his first efforts, a combination of favorable circumstances enabled him during the next year to force from a reluctant Congress a stronger measure than he had at first expected, and also to drive through two other acts of great importance — the pure meat and pure food bills.

During these years, too, he was constantly making speeches in which he took advanced positions. His speech on the "man with the muck rake" delivered in April, 1906, declared his personal conviction that some form of inheritance tax must sooner or later be adopted to limit the growth of fortunes "swollen beyond all healthy limits". Again in his annual message of December, 1906, he discussed the desirability of both income and inheritance taxes, "the prime object of which should be to put a constantly increasing burden on the inheritance of those swollen fortunes which it is certainly of no benefit to perpetuate". As the end of his term approached, he became still more emphatic in his denunciation of unscrupulous greed. His description of a certain multi-millionaire "as a man of whom it has been well said that his face has grown hard and cruel while his body has grown soft; whose son is a fool and his daughter a foreign princess" was perhaps unnecessarily vehement. It was nevertheless a characteristic utterance. His warfare against concentrated wealth could not be waged effectively by soft phrases and gloved hands.

His prosecution of illegal combinations under the Sher-

man Anti-Trust Act compelled attention to legislation that had been disregarded for many years. Whether the law is a wise one, and whether its strict enforcement accomplishes really useful results, may be open to question. Many people had accepted the opinion that it could not be enforced against the power of great combinations of capital. Roosevelt proved that it could be done, and by that very fact showed the strength of a government based upon real popular support.

Opposition to the dominance of Speaker Cannon in the House of Representatives, and to the methods used in the Senate in the revision of the tariff during the extra session of Congress in 1909, led to a division in the Republican party: a number of Senators and Representatives became known as "Insurgents". The most conspicuous at first were Senators LaFollette of Wisconsin, Dolliver and Cummins of Iowa, Beveridge of Indiana, Bristow of Kansas, Clapp of Minnesota, Bourne of Oregon, Borah of Idaho, and Dixon of Montana. The failure of the Taft administration to continue the Roosevelt policies in a decisive way gradually crystallized a progressive or radical sentiment in the country. Roosevelt seemed to have converted the Republican party from an organization closely identified with the great business interests to a popular party. His retirement gave the old leaders a chance to reassert themselves, with the outcome of serious division in the party. That division has increased as the policy of President Taft has become clearly hostile to the progressive wing of his party. The break came at the national convention of 1912.

LaFollette was the "first among the Republicans to comprehend the character of the irrepressible conflict within the party", declared Senator Dolliver in a speech delivered in Wisconsin a few months before his death. He began his reform work in 1894. He was elected Governor in 1900,

1902, 1904, and United States Senator in 1905, and reëlected in 1910 by a great popular vote. His measures of reform were the primary, equalization of railroad taxes, and regulation of railroad rates. In the Senate he compelled recognition by his great ability in the face of bitter opposition. His speeches are not of the popular kind — he makes the longest speeches of any political leader in the country. His work among the chautauquas serves the double purpose of providing him with funds for his campaigns, and also as an effective method of reaching his opponents in their own constituencies. Publicity and the campaign of education are his favorite methods.

The insurgent or progressive movement has had its greatest strength in the agricultural States of the Middle West. These States have been the seats of all the "forward movements" since the Civil War. Insurgency is really only the latest manifestation of the democratic tendencies that have been characteristic of the West throughout its development.

The progressive movement is by no means confined to a section or a party. It cuts through party lines. There are progressive Democrats as well as Republicans. So widespread is the division that predictions have been frequent for some time that a new alignment of parties is inevitable. The real division in American political life to-day is between "progressives" and "standpatters": whether Republican or Democrat is merely an accident. Recent events indicate that the re-arrangement of parties has really begun. For the permanent results, we must await further development.

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HISTORY OF THE CODES OF IOWA LAW

IV

THE CODE OF 1873

The *Code of 1873* was used as the official compilation of the statute law of Iowa for a period of twenty-four years — from 1873 to 1897 — and consequently was in use for a longer period than any other code of Iowa law.

During the session of the legislature in the year 1868 there were a large number of amendments offered to the *Revision of 1860*.[1] These were in part due to the increased amount of legislation enacted during the period, to the great material growth in the State, and to changes made by amendments of varying importance to the civil and criminal practice acts.[2]

DISSATISFACTION WITH THE REVISION OF 1860

There also appeared to be a considerable amount of dissatisfaction with the *Revision of 1860* among the legal profession. One leading Iowa attorney declared:

> We do not propose to say that the work could have been more thoroughly done in the given time, but we will say it was not performed as the General Assembly and the people supposed it would be when the commission was organized. The Revision is a report of such statutes as the commission then believed to be in force — this and nothing more. Nothing was done towards harmonizing existing laws, and no attempt is apparent at a general codification. The statute law of the state to-day consists of such provisions of

[1] For a list of the changes made to the *Revision of 1860* see *House Journal*, 1868, at pp. 793 and 813; and the *Senate Journal*, 1868, at pp. 614 and 636.

[2] *Laws of Iowa*, 1868, p. 208. Chapters 149 and 150 furnish examples of such amendments.

the Code of 1851 as have escaped the pruning knives of later General Assemblies, to which are added the accretions of eighteen years. Since the Revision — so-called — was published in 1860, the legislature has assembled in four regular and two extraordinary sessions. For eighteen years there has been no actual revision of the laws. During this time the Supreme Court has delivered opinions filling twenty-six volumes. It is not often that a state finds its laws in a more confused condition.[3]

Furthermore, Governor Samuel Merrill made the following comments upon the dissatisfaction of the public with the existing criminal code:

I invite your attention to an examination of the Criminal Code of the State. I am led to this suggestion by the fact of our current history, that, although less frequently occurring perhaps than in former years, the summary process known as "lynching" is yet too often resorted to for the purpose of rudely effectuating what are supposed to be the ends of justice. I am of opinion that riotous proceedings of this character are usually prompted by despair of justice being done through the ordinary operation of the law. That this feeling is ill-founded is very probable. Nevertheless, its existence should arrest the attention of the legislature, and lead to the inquiry whether there is any just cause for complaint at the laxity of our laws for the punishment of crime, and whether the criminal code itself, in a laudable anxiety to shield the innocent, has not been made to afford a convenient panoply to wealthy and crafty guilt.[4]

Despite the fact that parts one and two of the Code had been revised in 1860, there existed a great amount of confusion in the laws. The Commissioners of 1860 had so interpreted their powers that they had refused to make any change, either in words or phrases. Consequently the result of their labors was not a clear exposition of the statute law as it existed at the time of the adoption of the

[3] *The Western Jurist,* December, 1869, p. 323.

[4] Shambaugh's *Messages and Proclamations of the Governors of Iowa,* Vol. III, p. 319.

Revision.[5] This fact is strikingly brought out in the following paragraph from *The Western Jurist:*

> On the 14th of December, 1838, the territorial legislature passed "an act organizing a board of county commissioners in each county of the territory of Iowa." [*Laws* 1839, page 151.] The general provisions of this act are retained in the Revision of 1843. [Revision 1843, Chapter 31.] The Code of 1851 provided for the election of a county judge, conferring upon him "the usual powers and jurisdiction of the county commissioners, and of a judge of probate, and with such other powers and jurisdiction as are conferred by statute." [Code of 1851, § 105.] Almost every subsequent General Assembly made his powers and duties the subject of one or more enactments. In 1860 the General Assembly introduced a radical change in the system of county administration by transferring the fiscal and general affairs of the county to the control of a Board of Supervisors composed of members elected by the people in the several townships. [Laws of 1860, Ch. 47, Rev. 1860, Tit. 3, Ch. 22, Act 11.] The act creating the board defines its powers and duties in terms somewhat general, but the General Assembly, evidently realizing the many insufficiencies and imperfections thereof, by a sweeping statute declared: "That in all cases where the powers hereby conferred upon said Board of Supervisors have heretofore been exercised by the County Judge, county court, or other county officers, the said Supervisors shall conduct their proceedings under said powers in the same way and manner as nearly as may be as is now provided by law in such cases for the proceedings of said county judge, county court, and county officers, provided they are not inconsistent with the provisions of this act," [Laws of 1860, Sec. 24, Rev. 1860, sec. 325] and "that all laws which may be in force at the time of the taking effect of this act, devolving any jurisdiction or powers on county judges, which said jurisdiction or powers are conferred upon the County Board of Supervisors, by an act of the present General Assembly entitled an act creating a Board of County Supervisors, defining their duties and the duties of certain county officers, shall be held to apply and devolve said jurisdiction and powers upon the said Board of Supervisors, in the same manner and to the same extent

[5] *Report of Commissioners to Revise the Statutes,* 1871, p. 5. See also the *Revision of 1860,* preface, p. v.

as though the words County Board of Supervisors occurred in said laws, instead of the words County Judge.'' [Laws 1860, Ch. 100, Rev. 1860, Sec. 330.] To ascertain the extent of his jurisdiction and the full scope of his duties is no trifling matter to the supervisor. He will carefully study: 1. The provisions of the acts of 1839 and Revision of 1843, for the purpose of advising himself as to the ''usual powers and jurisdiction of the county commissioners.'' 2. The provisions of the Code of 1851 and subsequent statutes relating to the county judge. 3. The act of 1860 creating the Board of Supervisors, and all subsequent statutes relating thereto. 4. He will carefully eliminate from the statutes relating to the county judge and county court those provisions ''devolving any jurisdiction or powers on county judges, which said powers are conferred upon the county Board of Supervisors,'' discriminating between the judicial and administrative functions of the judge; and 5. For the purpose of ascertaining the manner of discharging his duties; will trace through the statutes creating and regulating the exercise of the several powers conferred upon the board to discover the ''way and manner as nearly as may be'' in which the power was exercised before it ''devolved upon the board.'' These must be read in the light of many decisions of the Supreme Court of the State construing their provisions. Having pursued carefully and successfully this course of study he may be able to intelligently discharge his duties.[6]

The conditions above enumerated — the great increase in the bulk of legislation, the general discontent with the *Revision of 1860,* and the confused state of the laws — were important factors in securing legislative action looking toward a thorough and systematic reshaping and publication of the laws in the form of a code.

THE CREATION OF THE CODE COMMISSION

There appears to have been an understanding among leading attorneys that the Thirteenth General Assembly would provide for a commission to revise and codify the statutes. Mr. Thomas F. Withrow wrote in December, 1869, that ''one of the most important duties'' that would

[6] *The Western Jurist,* December, 1869, pp. 323–325.

fall upon the forthcoming legislature would be to provide for such a work.[7] He then stated his views as to how the commission should be appointed and the method of doing the work. Since Mr. Withrow was connected with some of the leading lawyers of the State through his position as an editor of *The Western Jurist,* his remarks are here quoted:

> A new Code, in our opinion, should be prepared, embracing in a proper system all general principles governing conduct and regulating property clearly settled by legislative or judicial declaration. These principles may be gathered from the statutes of the state now in force, and from the decisions of the courts, especially from the decisions of our own Supreme Court. New provisions will occur to those charged with the duty of preparing such a Code, many of which would be suggested by an examination of the *Civil Law.* It is safe to assume that that which the judges announce in written opinions and which the reporters are required to concisely state in the head notes of reported decisions may be written in a code. If it be practicable, there should be little delay in arriving at the conclusion that it is desirable. A systemized statement of the general principles of the law, accessible alike to lawyer and laymen, would be a boon conferred upon both. That which Justinian achieved for the Roman Law, and Napoleon for the Civil Law of France, may be accomplished for American Common and Statute Law.
>
> To attempt to accomplish this at a single session of the General Assembly would be futile. The work requires much investigation, the composition of a large volume in a style combining precision, brevity and clearness. The Code should not be the production of one mind, and should not be characterized by peculiar methods of thought and expression. We suggest:
>
> 1. That the Governor, the Judges of the Supreme Court and the Attorney-General be organized as a Board of Revisors, with power:

[7] *The Western Jurist,* December, 1869, p. 321. Mr. Thomas F. Withrow was one of the Iowa editors of the above paper, the general editor at this time being Wm. G. Hammond of Iowa City. Mr. Chester C. Cole succeeded Mr. Hammond as general editor. Mr. Withrow was Reporter of the Supreme Court from April 17, 1860, until 1867.— *Iowa Official Register,* 1911–12, p. 146.

(*a*) To appoint three commissioners who shall be charged with the duty of codifying the laws of the State.

(*b*) To regulate and control the discharge of duty by the commissioners by requiring meetings as often as the Board shall deem best, by dividing and assigning the execution of detail, by requiring reports from the commissioners as often as in their opinion shall be deemed necessary for the prompt accomplishment of the work.

(*c*) To revise the reports submitted by the commissioners and direct amendments of the same.

(*d*) To remove members of the Board of Commissioners at pleasure; and to fill by appointment vacancies created by removal or otherwise.

2. The report of the commissioners after being revised by the Board of Revisors shall be submitted to the General Assembly for action. If the usual course shall be pursued the whole report will be committed to the Judiciary Committees, and with their suggestions, to the two houses for final action.

The usual method is to appoint a number of commissioners who are under the control of the Legislature. It is believed that the suggestions above set out embrace the outline of a more satisfactory organization. The Commissioners are usually selected from members of the bar in active practice. It is well in some respects that this is so, for in no other circle can men be found better qualified by actual experience for such work. But it also has its disadvantages, especially in connection with biennial sessions of the General Assembly. The demands of an active practice, enforced by threatened defaults, decrees *pro confesso,* and trials of causes without preparation, are more imperious than the sense that a report to be submitted months hence *now* demands attention. To state the proposition plainly, when no supervisory power controls a board of practicing lawyers, there is reason to fear that too often they will yield under the pressure of business to a temptation to postpone and delay the performance of official duty, and will, when the time for submitting a report approaches, do the work assigned hastily. The board by the exercise of the power to apportion the work, to require meetings and to remove and appoint, could enforce prompt attention to the discharge of duty. The principal value of the services of the board will be in the revision they will make of the work of the commissioners. Of the six members of the Board, five will be lawyers and four of them judges of the Supreme Court.

Their revision of the report of the commissioners before it is submitted to the General Assembly, the review it will receive at the hands of the Judiciary Committees and its examination on the floor of each house should give the state a code as nearly perfect as the nature of the case and human infirmity will permit. Too much care, time and labor cannot be given to work so important. Time and money expended in producing a well rounded and clearly expressed body of laws is time and money saved to the people, the bar and the courts. We trust the General Assembly will not hesitate to inaugurate the work.[8]

When the legislature convened on the tenth of January, 1870, Governor Samuel Merrill proposed in his biennial message that a commission be appointed whose duty it would be to "revise and codify the laws of the State".[9] The legislature, with very little discussion, proceeded to enact a bill creating such a commission.[10]

The Thirteenth General Assembly was composed of some very able men and accomplished a great deal in the way of legislation. William Larrabee and G. G. Bennett[11] in the Senate and John A. Kasson[12] and John Y. Stone in the

8 *The Western Jurist,* December, 1869, pp. 327, 328.

9 Governor Merrill wrote as follows: "I respectfully call your attention to the condition of our laws. They are spread on our statute-books for several years, reaching as far back as 1851, and some of them even referring to antecedent enactments. Every man is supposed to 'know the law,' and ignorance of it excuses no man. Should it not, then, be the aim of the legislature so to simplify the statute-book, and condense its bulk, that the law may be the more easily ascertained by the citizen? I would recommend that provision be made for the selection of commissioners to revise and codify the laws of the State; these commissioners to be required to report progress to some authority at intervals, and to complete the work in time for the next General Assembly."—Shambaugh's *Messages and Proclamations of the Governors of Iowa,* Vol. III, pp. 319, 320.

10 *Laws of Iowa,* 1870, Ch. 75, pp. 75, 76.

11 Senator Larrabee was chairman of the Committee on Ways and Means and Senator Bennett chairman of the Judiciary Committee. See *Senate Journal,* 1870, pp. 281, 282, and also p. 341.

12 In the House Mr. Kasson was a member of the Ways and Means Committee and Mr. Stone was a member of the Judiciary Committee.—*House Journal,* 1870, p. 78.

House appear to have been among the leaders during this session.

On February 3, 1870, Senator Granville G. Bennett of Washington, a member of the Judiciary Committee, introduced Senate File No. 95, which was "a bill for an act creating a commission to revise the statistics [statutes] of Iowa, and defining their duties and providing for the publication and distribution of their report."[13] One month later, on March 2, 1870, the above bill came up for consideration and Senator Charles Beardsley moved that it be printed and be made the special order eight days later on March 10th.[14] Senator L. E. Fellows attempted to have the bill indefinitely postponed, but he was unsuccessful and the motion of Senator Beardsley prevailed.[15]

In explaining his desire to have the bill printed Senator Beardsley stated that he had the utmost confidence in the Judiciary Committee and in its able chairman, but that the bill was of such importance that it deserved to be published.[16] Mr. Patterson of Floyd County was opposed to the passage of the bill, giving as his reason the fact that a constitutional convention might be called which would pass or enact a new constitution and under such circumstances a new revision would be a necessity in three or four years. Senator Mulkern of Dubuque County and Senator L. E. Fellows were of the same opinion as was Senator Patterson, while Senators G. G. Bennett, John McKean, and Napoleon B. Moore championed the appointment of a commission.[17]

When the bill to appoint a commission, which had been made a special order, came up for consideration the prin-

13 *Senate Journal,* 1870, p. 121.

14 *Senate Journal,* 1870, p. 199.

15 *Senate Journal,* 1870, p. 200.

16 *Des Moines Bulletin — Legislative Supplement,* 1870, No. 26, p. 2.

17 *Des Moines Bulletin — Legislative Supplement,* 1870, No. 26, pp. 2, 3.

cipal discussion centered about the personnel of the commission. Senator Bulis desired to insert the name of Mr. E. E. Cooley of Winneshiek County in place of the name of Mr. John C. Polley, stating in support of his motion: "the persons whose names are suggested in the bill are chosen from the eastern part of the State, and I think they should be selected from different parts of the State".[18] Senator Homer E. Newell desired to amend the amendment by striking out the name of E. E. Cooley and substituting in its place the name of J. O. Crosby of Clayton County, who was at that time a member of the Commission of Legal Inquiry. Senator Ireland rose to defend the original bill containing the name of Judge Polley and both the amendments were lost. Senator Dysart moved to strike out all the names of commissioners in the bill, declaring that the commissioners should be selected by the legislature. Senator West then proposed the name of Mr. T. W. Woolson of Henry County as a member of the board, but this motion was likewise lost. It finally appeared that no name could be substituted for that of Judge Polley and the effort was abandoned.[19]

Senator William Larrabee thought that the laws that had been declared unconstitutional by the Supreme Court should be left in the revision and he moved to strike from the act a section which would have caused such acts to be omitted.[20] Senator Fellows proposed an amendment which required the commissioners to wait until after the people had voted upon the question of calling a convention to revise the constitution.[21] This met with legislative approval

18 *Des Moines Bulletin — Legislative Supplement,* 1870, No. 36, p. 2.

19 *Senate Journal,* 1870, pp. 249, 250. See also the *Des Moines Bulletin — Legislative Supplement,* 1870, No. 36, p. 2.

20 *Senate Journal,* 1870, p. 250.

21 *Des Moines Bulletin — Legislative Supplement,* 1870, No. 36, p. 2. The action of the Senate is fully described in this paper.

and became a part of the act.[22] Senator John G. Patterson made an effort to have R. G. Reiniger of Floyd County added to the board of commissioners, but the Senate adjourned temporarily without taking any action thereon.[23] When the Senate again considered the bill on the afternoon of April 1st, the proposition put forth by Senator Patterson was lost.[24] The bill was then put on its final passage and was passed by a unanimous vote and without any discussion whatever, showing that the need of a revision of the laws was generally recognized.[25]

Meanwhile, during the discussion of the above bill in the Senate there were other bills[26] and reports tending to aid in the passage of this bill by showing the necessity for a revision.[27] On March 8, 1870, the Commission of Legal Inquiry submitted a report with a draft of a bill annexed.[28] In this report the members of the commission stated that they had not examined all the "Legislation amendatory to the Revision", but had made only a "few suggestions".[29] These were reported from the Judiciary Committee favorably and recommended for passage.[30] One of these bills was Senate File No. 208, providing for a considerable number of changes in the Civil Practice Act of the *Revision of*

22 *Laws of Iowa,* 1870, Ch. 75, sec. 4, p. 76.

23 *Senate Journal,* 1870, p. 251.

24 *Senate Journal,* 1870, p. 421.

25 *Des Moines Bulletin — Legislative Supplement,* 1870, No. 45, p. 1.

26 For a list of amendments to laws passed or proposed at the session of 1870 see *Senate Journal,* 1870, pp. 645, 646.

27 At nearly every session of the General Assembly one or more bills were introduced calling for a compilation of the road laws or a revision and publication of the school laws.

28 *Senate Journal,* 1870, p. 237.

29 For an account of the Commission of Legal Inquiry see a previous article in THE IOWA JOURNAL OF HISTORY AND POLITICS, Vol. X, p. 353.

30 The Judiciary Committee reported seven bills after having examined the report of the Commissioners of Legal Inquiry. These are to be found in the *Senate Journal,* 1870, p. 359.

1860.[31] This act was favorably received in both houses and was enacted into law.[32]

The House of Representatives does not appear to have taken as active a part in the consideration of the codification of the laws during the session of 1870 as did the Senate. Early in the session a bill was introduced providing for the compilation and publication of the road laws.[33] After being recommended favorably it passed the House by a unanimous vote and also met with favor in the Senate.[34] The Secretary of State was allowed four hundred dollars for preparing the book and the Attorney General fifty dollars for his share in the work.[35]

The Senate bill providing for the appointment of commissioners to revise the statutes was received in the House on April 2, 1870.[36] It appears that the bill had already been considered by the joint committee of the two houses and consequently was not referred to the House Judiciary Committee, but was acted upon at once.[37] Mr. James Dunne attempted to have the name of W. J. Knight of Dubuque stricken out and that of William E. Leffingwell of Clinton inserted. Mr. Theophilus Crawford desired to have Mr. James Dunne of Jackson on the Commission, but the House adopted the bill in the form in which it was received from the Senate, by the decisive vote of seventy to eight.[38]

This bill, having passed both branches of the legislature, was approved by the Governor on April 7, 1870.[39] By its

31 *Senate Journal,* 1870, pp. 359, 375.

32 *Senate Journal,* 1870, p. 461. See also the *House Journal,* 1870, pp. 534, 574, 634, 635.

33 *House Journal,* 1870, p. 131.

34 *House Journal,* 1870, pp. 161, 267, 573.

35 *Laws of Iowa,* 1870, Ch. 86, pp. 87, 88.

36 *House Journal,* 1870, p. 496.

37 *Des Moines Bulletin — Legislative Supplement,* 1870, No. 62, p. 2.

38 *House Journal,* 1870, pp. 500, 501.

39 *Laws of Iowa,* 1870, p. 76.

provisions, William H. Seevers of Oskaloosa, John C. Polley of Clinton County, and William J. Knight of Dubuque were appointed a commission, with the following instructions:[40]

> They shall carefully revise the statutes of this State, rewrite the same, divide them into appropriate parts, arrange them under proper titles and chapters, omit all parts repealed and such as have become obsolete, insert all amendments, so as to make the same complete, transpose words and sentences, arrange and number the same in their proper order, and when necessary change the phraseology by leaving out and inserting words and sentences so as to adapt the same to the form of county government and system of courts as fixed by law. They shall omit from such revision all statutes of a private, local, or temporary character; those relating to the apportionment of the State into congressional, senatorial, representative, and judicial districts; all references to prior laws, decisions, notes, and references to their own report or that of any former commission on revision.[41]

By another section of this act the Commissioners were instructed not to enter upon their labors until after the general election in 1870, when it would be determined whether or not the Constitution would be revised. If the people should vote to revise, the Commissioners were not to perform any duties until advised by the next General Assembly. But if there was to be no revision of the Constitution, the Commissioners were to report to the Governor by July 4, 1871, all the changes, omissions, or additions made to the laws of the State.[42]

The Governor was thereupon to have one thousand copies of the report printed by the first day of the following September and distribute the same to the various State officials and to the members of the legislature.[43] The Com-

[40] *Laws of Iowa,* 1870, Ch. 75, sec. 1, p. 75.

[41] *Laws of Iowa,* 1870, Ch. 75, sec. 3, pp. 75, 76.

[42] *Laws of Iowa,* 1870, Ch. 75, sec. 4, p. 76.

[43] *Laws of Iowa,* 1870, Ch. 75, sec. 5, p. 76.

missioners were to be allowed a per diem of ten dollars for "each and every day actually employed" and ten cents a mile for every mile "necessarily" travelled in the discharge of their duties.[44] In addition, they were to be furnished with such stationery and statutes as would be needed for their work.[45]

It will thus be seen that the law was very explicit and comprehensive in its provisions. In determining the intention of the legislature the Commissioners came to the conclusion that they were "not only to 'revise', and 'arrange', but also to 'rewrite' " the statutes,[46] but that this did not include a codification of the unwritten law or of the judicial decisions of the Iowa Supreme Court. In fact, judicial opinions received no notice except in cases where statutes had been declared unconstitutional.[47] The interpretation placed by the Commissioners upon their powers is forcefully stated in the following extract from their report:

> It is equally clear that we were to revise and rewrite the statutes, not merely to compile them. The power to do this is given with remarkable fullness and particularity, and great care is taken to exclude the possibility of our reporting a compilation, with the marks and references which in a mere compilation are necessary. The evident intention was that the new volume should be, like the Code of 1851, a homogeneous unit, dating and deriving its validity from a single enactment, so that no question could be raised as to the repeal or superseding of one section by another, or the relative age of different provisions.[48]

THE CODE COMMISSIONERS

The Commissioners appointed to revise the statutes were men of great legal learning and ability. The original Com-

44 *Laws of Iowa,* 1870, Ch. 75, sec. 6, p. 76.

45 *Laws of Iowa,* 1870, Ch. 75, sec. 7, p. 76.

46 *Report of Commissioners to Revise the Statutes,* 1871, p. 6.

47 *Report of Commissioners to Revise the Statutes,* 1871, p. 7.

48 *Report of Commissioners to Revise the Statutes,* 1871, pp. 7, 8.

mission, consisting of William H. Seevers, John C. Polley, and William J. Knight, did little more than organize and divide their labors, as they were forced to wait until after the fall elections before commencing their task. Mr. John C. Polley removed from the State late in the year 1870,[49] thus necessitating the appointment of a new member and the reassignment of labors. Accordingly, Governor Merrill appointed Chancellor William G. Hammond of the Law Department of the State University of Iowa to the vacancy. On December 26, 1870,[50] Chancellor Hammond took the oath prescribed in the act, and thereafter the personnel of the Commission remained unchanged until the entire work was finished.

William H. Seevers of Mahaska County was the chairman of the Code Commission.[51] Judge Seevers was born and educated in Virginia, removing to Mahaska County, Iowa, in 1844. Two years later he was admitted to the bar. In 1848 he was elected prosecuting attorney and in 1852 to the judgeship of the Third Judicial District, which position he held for five years. He was twice a member of the lower house of the legislature, serving in 1858 and again in 1876. After the adoption of the Code, Judge Seevers was appointed its Editor. In 1876 he was elevated to the Supreme Bench of the State and served on that tribunal for two terms, until 1888.[52] He died in March, 1895.[53]

William G. Hammond of Iowa City, who wrote parts one and two of the *Code of 1873,* was a very able lawyer, a distinguished teacher, and a man of rare attainments and

[49] *Report of Commissioners to Revise the Statutes,* 1871, p. 3.

[50] *Report of Commissioners to Revise the Statutes,* 1871, pp. 3, 4.

[51] *Report of Commissioners to Revise the Statutes,* 1871, p. 3.

[52] *Iowa Official Register,* 1911–12, p. 140.

[53] For biographies of Judge William H. Seevers, see the *Annals of Iowa,* 3rd Series, Vol. II, p. 80; *The History of Mahaska County,* 1878, pp. 592, 593; *The Courts and Legal Profession in Iowa,* 1907, Vol. I, pp. 318, 319; and Gue's *History of Iowa,* Vol. IV, p. 238.

great learning.[54] He was born at Newport, Rhode Island, on May 3, 1829, and received his collegiate education at Amherst College, graduating with the A. B. degree in 1849. He read law in New York City following his graduation and was admitted to the bar in 1851. In 1856 he went abroad and spent some time at Heidelberg. Following his return to America in 1858 he emigrated to Iowa, locating at Anamosa, from whence he removed to Des Moines in 1867. There he opened up a practice and was associated with the Iowa College of Law. One year later, in 1868, he removed to Iowa City, where he became Chancellor of the Law Department of the State University of Iowa. This position he ably filled until 1881, when he became Dean of the St. Louis Law School. In 1889 Chancellor Hammond headed the Committee on Legal Education of the American Bar Association and he was also at one time President of The State Historical Society of Iowa.[55] His death occurred on the twelfth of April, 1894.[56]

William J. Knight of Dubuque was a Democrat in poli-

[54] *Report of Commissioners to Revise the Statutes,* 1871, p. 4.

[55] See Shambaugh's *A Brief History of The State Historical Society of Iowa,* 1907, p. 23.

[56] Biographies of William G. Hammond may be found in the *Annals of Iowa,* 3rd Series, Vol. I, p. 503; *Iowa Historical Record,* Vol. X, No. 3, July, 1894, pp. 97–106; *The Courts and Legal Profession of Iowa,* 1907, Vol. I, p. 155; McClain's *William Gardiner Hammond* in *Great American Lawyers,* Vol. VIII, p. 191; Gue's *History of Iowa,* Vol. IV, pp. 117, 118. A fine tribute is paid to Chancellor Hammond's scholarship by John P. Irish in THE IOWA JOURNAL OF HISTORY AND POLITICS, Vol. VIII, p. 554.

A considerable number of the papers and manuscripts of William G. Hammond are preserved in a collection deposited with The State Historical Society of Iowa by his daughter. This collection contains a scrap book filled with newspaper clippings concerning Chancellor Hammond. The following clipping, found in this *Scrap Book* at p. 26 shows the public confidence placed in the Commission:

"If the Legislature will stay the hand of mutilation Iowa is pretty sure of having a model code as the result of the labors of the Commission. Every State is not so fortunate in getting gentlemen to revise codes so versed in the science and practice of the Law as Messrs. Hammond, Knight and Seevers."

tics and was the youngest member of the Code Commission. He was born in Kilkenny, Ireland, on March 3, 1838, and was educated at Kilkenny College. In 1852 he sailed for America and later studied law in an office at Dubuque, winning admission to the bar in 1857. In 1869 he became Mayor of the city of Dubuque, and at later periods he served in both houses of the State legislature.[57] His death occurred in 1908.

THE WORK OF THE COMMISSION

Immediately after the appointment of Mr. Hammond to the Commission it entered in earnest upon the performance of its duties.[58] On September 9, 1871, the Commission submitted to Governor Samuel Merrill its report and also a manuscript copy of the Code which it had prepared.[59]

According to this report, the first meeting of the Commission was held on November 9, 1870, at which time an organization was effected and the work divided. To Mr. Polley were allotted parts one and two to revise and codify; Mr. Seevers was selected to take the Code of Civil Procedure, and Mr. Knight the Code of Criminal Procedure. Shortly afterward, as has been noted, Mr. Polley resigned and on December 24, 1870, Mr. Hammond was appointed to take his place.[60]

Mr. Hammond assumed the parts assigned to Commissioner Polley and the Commission was "actively and constantly engaged in its labors" until the work was completed.

[57] For biographical material concerning William J. Knight see *The Bench and Bar of Iowa,* 1901, pp. 348, 349; *The Courts and Legal Profession of Iowa,* 1907, Vol. I, pp. 166, 167; and the *Proceedings of the Iowa State Bar Association,* Vol. XIV, p. 151. Very little of a biographical nature is to be found concerning John C. Polley of Clinton County, who was appointed on the original commission.

[58] *Report of Commissioners to Revise the Statutes,* 1871, p. 4.

[59] *Report of Commissioners to Revise the Statutes,* 1871, pp. 3, 20.

[60] *Report of Commissioners to Revise the Statutes,* 1871, pp. 3, 4.

At intervals of about a month the Commission met and went over the work jointly. As a result the Code submitted to the legislature was "without a single dissent from any member of the Commission to any recommendation contained either in the Code or in this Report."[61] But the Commission lamented the fact that it was given such a short time in which to complete its labors — the two former code commissions having been granted from four to six times the length of time for carrying out the task of codification. In deploring the lack of a sufficient amount of time in which to do their work in a proper manner the Commissioners took occasion to criticise the *Revision of 1860* and praise the *Code of 1851*. In speaking of the latter work they declared:

> The careful examination which we have been obliged to make of that Code, as well as all the subsequent legislation of the state, warrants us in saying that,— speaking now with reference to form, style, and method only, and without reference to the subject-matter — the Code of 1851 is altogether the best executed piece of legislation we have ever had in the state, of any considerable length, and is equalled by very few of the laws of the other states of the Union, in these qualities, so far at least as we have had opportunity to examine.[62]

Owing to the fact that the Commission could not begin its work until about January 1, 1871, it was found to be impossible to complete the task by the date set in the statute (July 4th), and as a consequence the report was over two months late in appearing.[63] The interpretation which the Commissioners placed on their powers has already been noted. The most interesting part of the report, perhaps, is the portion wherein are enumerated the general rules adopted in preparing the manuscript code. In short,

61 *Report of Commissioners to Revise the Statutes,* 1871, p. 4.

62 *Report of Commissioners to Revise the Statutes,* 1871, p. 5.

63 *Report of Commissioners to Revise the Statutes,* 1871, p. 20.

these were: to make no change for its own sake; to avoid "changes that were connected with partisan or sectional purposes"; to arrange all new matter for the practical convenience of those who were to use it; to secure the threefold quality of precision, clearness, and brevity in all cases where language was altered and to substitute the English equivalent for all Latin terms or phrases; to avoid repetition; and to omit certain things, such as repealing clauses, curative, or retroactive clauses, amending clauses, and all sections giving a legislative construction to prior acts, which were often found in the session laws.[64]

The idea of substituting the English term or phrase for the Latin equivalent appears to have met with popular favor, as the following article taken from a State paper, and entitled *Plain English Ahead,* would indicate:

> We notice, in examining the report of the Commissioners to Revise the Statutes of Iowa, among the many good and useful measures proposed, one that we hail as peculiarly indicative of a change which will in law, as it would in the other learned professions, meet with almost universal approval,— the removing at once of all foreign words and phrases, the retaining of which has long since ceased to be either necessary or useful. The Committee say they have endeavored "to make the Statute book speak plain English throughout even where a few more letters were required." Thus they have substituted "by virtue of his office," for *ex officio,* "in good faith," for *bona fide,* "presumptive" for *prima facie,* etc, etc. They only retain a few such recognized names as have in fact become our own technical terms. The wholesome good sense of this move we are sure will be apparent to every one. If there ever was any apology for the use of foreign words and phrases in the English books and practice of law, literature, medicine or divinity, the time has long since passed.
>
> . . . . The English language is following Anglo-Saxon enterprise throughout the world. It will yet be universal. It will be the court language of civilization. It is unequalled by any language, living or dead, for its breadth of application and readiness of

64 *Report of Commissioners to Revise the Statutes,* 1871, pp. 11–13.

adaptation, and there can be no excuse for clinging to these worse than useless idiomatic expressions of a foreign language. They can no longer deceive. They can shield ignorance no more. We heartily commend the Law Codifiers of Iowa for their command of plain English to the front.[65]

In selecting the method of arrangement in the proposed Code the Commission unhesitatingly adopted the plan of the *Code of 1851,* declaring that it was "substantially the one that we would choose in a new case."[66] This was the division into four grand chapters or parts, a system which was declared to be in use in the codes of the State of New York, and was known as the logical, philosophical, or natural order.[67] The Commissioners declared that they had "departed no farther" than they could help from the plan of the *Code of 1851,* the greater portion of Title XIII being changed from part one to part two, since it contained private law for the most part.[68] The greatest number of changes occurred in the first two parts, which had not been changed, except by subsequent session laws, since 1851, for the revision in 1860 had really done little if any good in the way of simplifying the provisions of these parts, acts inconsistent with each other being found therein.[69] In closing their report the Commissioners suggested a plan for the consideration of the manuscript code, and called for any suggestions looking toward the improvement of the work.[70]

Following a *Synopsis,* in which is shown where the sections of the proposed code may be found in the preceding codes,[71] the Commissioners took up each part of the new act

65 From a clipping found in a *Scrap Book,* p. 26, in the Hammond Collection in The State Historical Society of Iowa.

66 *Report of Commissioners to Revise the Statutes,* 1871, p. 14.

67 *Report of Commissioners to Revise the Statutes,* 1871, p. 15.

68 *Report of Commissioners to Revise the Statutes,* 1871, p. 16.

69 *Report of Commissioners to Revise the Statutes,* 1871, p. 34.

70 *Report of Commissioners to Revise the Statutes,* 1871, p. 20.

71 *Report of Commissioners to Revise the Statutes,* 1871, pp. 21–32.

and gave a list of all substantial changes and the reasons therefor. The title of the first part was changed to "Public Law."[72] So, too, some of its subdivisions, such as Titles V, IX, and XV, disappear altogether. In writing parts one and two Chancellor Hammond stated that it was necessary to use only the *Code of 1851* and the session laws from 1851 to 1870, as the *Revision of 1860* was of practically no assistance, owing to its jumbled arrangement.[73]

One of the proposed changes was in chapter three of Title I which called for a division of the session laws into two series, one containing the general and the other the special

[72] *Report of Commissioners to Revise the Statutes,* 1871, p. 33.

[73] *Report of Commissioners to Revise the Statutes,* 1871, pp. 33, 34.

Chancellor Hammond, in detailing his method of revising the Public and Private Law declares: "The First and Second Parts of the Revision of 1860 are merely a compilation of such parts of the Code of 1851 as were understood to be in force at that time, and the Session Laws of a public nature passed between 1851 and 1860. The latter were printed without even the slightest verbal changes; and an amending act was usually thrown into the form of a subsequent article, without any attempt to arrange the several sections in their appropriate places. Even the misprints, errors in punctuation, and other defects of the session laws, (which were then most carelessly printed,) were reproduced with scrupulous fidelity. Conflicting sections were frequently allowed to remain, and in a few cases sections were omitted which had not been repealed. The additional matter was professedly arranged according to the plan of the Code; but with so little care as almost to obliterate that plan entirely, under the chaos of new subjects introduced by ten years of active legislation.

"These remarks are made reluctantly, and only to explain and justify the course pursued: which was to disregard entirely the changes made by the Revision in the plan of the Code of 1851, and to make that Code, in its original form, the basis of our work. At first indeed the Revision was taken as a guide by the member of the commission who had these parts in charge, and a considerable amount of work done in adapting the later laws to its arrangement. But so soon as an attempt was made to put a chapter thus arranged into its final shape, omitting all the numbers, rubrics, foot-notes, etc.; by which the relation of one section to another, and the meaning of both, are there determined, the fatal defects of the method adopted became evident. It was seen that almost every chapter of the Revision (except those taken without change from the Code) would have to be reconstructed, before it would be even intelligible without these extraneous aids. And the easiest way to do this was to go back to the Code of 1851, and to construct the present work from that Code and the Session Laws of 1851–1870."

laws of the session.[74] The acts in the series of general laws were to be numbered consecutively from one session to another, the idea being that the acts of two or three sessions of the General Assembly could be bound in a single volume, and, being numbered consecutively, would form a supplement to the Code. Thus, according to the author of the report, "the statute law of the state may be left unrevised for a quarter of a century, with less trouble and confusion resulting therefrom than has arisen in ten years of the old system, or want of system."[75]

Title III is a new title and is headed "Of the Judicial Department." The organization of the courts, however, is not included under this heading, but is left, as formerly, in part three.[76] One change which was considered advisable was the taking from the Circuit Judge of the power of granting licenses to sell liquor and the granting of such power to the County Board of Supervisors.[77]

The name of part two has been changed in the proposed code from "Of the Rights of Persons" to "Private Law",[78] but this part has fewer changes in it than have the other three.[79] One new section which was proposed, however, provided that no vendor should have a lien for unpaid purchase money after possession had been delivered to the vendee, unless it was reserved by an instrument in writing.[80] Another new section was one exempting the husband from liability for torts committed by his wife.[81]

Chairman Seevers had in charge the preparation of the

74 *Report of Commissioners to Revise the Statutes,* 1871, p. 36.
75 *Report of Commissioners to Revise the Statutes,* 1871, p. 37.
76 *Report of Commissioners to Revise the Statutes,* 1871, p. 41.
77 *Report of Commissioners to Revise the Statutes,* 1871, pp. 56, 57.
78 *Report of Commissioners to Revise the Statutes,* 1871, p. 61.
79 *Report of Commissioners to Revise the Statutes,* 1871, pp. 61, 62.
80 *Report of Commissioners to Revise the Statutes,* 1871, pp. 62, 63.
81 *Report of Commissioners to Revise the Statutes,* 1871, p. 67.

Civil Practice Act and although he proposed the substitution of a considerable number of sections, they nearly always tended to greater brevity and clearness than was to be found in the original sections in the *Revision of 1860.* Two new sections relating to witnesses were copied from the New York Code of Civil Practice.[82] A large number of changes are to be found in chapters 161 and 162 which in the *Revision* contained "General Provisions" and sections relative to "Compensation of Officers", respectively.[83]

William J. Knight revised part four, which contains the Criminal Code.[84] One feature emphasized was the placing of a maximum penalty that could be imposed and leaving the minimum punishment discretionary with the court.[85] A provision was also recommended looking to the bringing into court of a corporation on an indictment.[86]

The manuscript copy containing the features above enumerated was printed and bound in two large quarto sized volumes with blank pages bound between each printed page. The code as thus reported was supposed to be in the same form as when finished and hence did not contain an enacting clause, nor was it reported in the form of a bill.

The first volume of this proposed code contains part one, on "Public Law", and consists of three hundred and twenty-three printed pages. The second volume contains parts two, three, and four, and in other respects is similar to volume one.[87]

[82] *Report of Commissioners to Revise the Statutes,* 1871, pp. 136, 137.

Many other new sections are also to be found in part three, but it would be impossible in an article of this character to state the new provisions introduced by the Code Commissioners. It is aimed to give only some of the most striking examples by way of illustration.

[83] *Report of Commissioners to Revise the Statutes,* 1871, pp. 139–142.

[84] *Report of Commissioners to Revise the Statutes,* 1871, p. 3.

[85] *Report of Commissioners to Revise the Statutes,* 1871, pp. 143, 145.

[86] *Report of Commissioners to Revise the Statutes,* 1871, Sec. 4672 *a,* p. 158.

[87] Part two comprises seventy-eight printed pages; part three, one hundred and seventy-four; and part four, one hundred and forty-three.

There appears to have been very little criticism of the report or of the draft of the code accompanying it. One interesting review of the work, however, is not especially friendly, since it contains the following adverse criticism of the method of arrangement:

> Without attempting to pass upon the work, which is not yet finished, we may express our satisfaction that it is in able hands. The portion of the code before us is the work of Mr. William E. [G.] Hammond, now a professor in the Iowa City Law School, and formerly editor of the *Western Jurist,* to which he contributed some criticisms of unusual excellence. If our respect for the authors of the report was less, we should less regret their avowed empiricism and distrust of philosophical methods of arrangement. In such a fragmentary work as a collection of statutes, it may be well enough to be "governed by the practical convenience of those who use the volume, rather than by any so-called scientific rules." But we regret what seems to us an ill-judged sneer at "the elaborate theories which have been devised 'out of the depths of their own consciousness,' or borrowed from foreign jurisprudence, by recent writers on classification." The most educated American lawyers are those, we believe, who would be slowest to adopt this tone. We must reiterate our profound conviction that the methods which are commonly called practical are in truth the most unpractical and destructive of sound legal thinking.[88]

LEGISLATIVE ACTION ON THE PROPOSED CODE

The Fourteenth General Assembly convened on the eighth of January, 1872.[89] Two days later Governor Samuel Merrill in his message to the legislature declared:

> The report of the commission has been printed and transmitted to the members elect of the Fourteenth General Assembly. You have therefore been enabled to examine the recommendations of the Commissioners, with their reasons therefor. To the changes they propose, your experience will doubtless enable you to add others. I

[88] This review is found on two printed pages and appears to have been taken from some professional journal or magazine. It is found in the Hammond Collection in The State Historical Society of Iowa, in a *Scrap Book,* p. 26.

[89] *House Journal,* 1872, p. 3.

endorse in the main the recommendations of the report, and sincerely hope that the code recommended, with such amendments as the General Assembly may see fit to make, will soon become the law of the State.[90]

The Governor also appeared to be very much interested in the Criminal Code and endorsed the suggestions of the Commissioners relative to abolishing the grand jury, declaring that "the grand jury is a costly and useless relic of by-gone days," and "its abolition will work no detriment whatever to the cause of justice."[91]

Governor Cyrus C. Carpenter in his inaugural address also called attention to the report of the Codifying Commission, declaring it to be the mature work of distinguished lawyers and that its adoption would "tend to round out and perfect our code of laws."[92]

On January 15, 1872, Mr. Frederick O'Donnell of Dubuque offered a resolution calling for the appointment of a joint committee, three from the House and two from the Senate, whose duty it should be "to present a bill for the adoption of the Code recommended by the Commissioners to Revise the Laws."[93] The above resolution was not adopted, but on the following day the Senate passed a concurrent resolution, offered by Senator James S. Hurley of Wapello, calling for the appointment of a joint committee of five from each house, with duties similar to those provided for in the defeated House resolution.[94] After two unsuccessful

[90] Shambaugh's *Messages and Proclamations of the Governors of Iowa,* Vol. III, p. 374.

[91] It would be interesting to know exactly to what Governor Merrill referred, for the proposed code does not contain any sections looking toward the abolition of the grand jury. On the other hand it specifically provides for the grand jury.— Chapter 196. Nor does the report appear to contain any suggestion looking toward the abolishment of the grand jury.

[92] *House Journal,* 1872, p. 67.

[93] *House Journal,* 1872, p. 75.

[94] *Senate Journal,* 1872, p. 30.

attempts to amend, this resolution was adopted in the Senate and on the day following, January 17, 1872, it passed the House.[95] Senators James S. Hurley, William Larrabee, Charles Beardsley, John P. West, and Samuel H. Fairall were appointed from the Senate,[96] and Representatives John H. Gear, John A. Kasson, Henry O. Pratt, Cicero Close, and Frank T. Campbell from the House.[97] On January 20th this committee reported a concurrent resolution to the Senate recommending that one thousand copies of parts one and two of the manuscript copy of the proposed code be printed, 600 for the use of the House, 300 for the use of the Senate, and one hundred for the use of the Code Commissioners.[98] This resolution was adopted by both houses.[99]

Mr. George Paul of Iowa City in the House of Representatives offered a resolution authorizing William G. Hammond to superintend the publication of parts one and two, but the resolution was not adopted.[100] However, a Senate concurrent resolution, offered by Mr. James Hurley, which requested the commissioners to superintend the printing of their report, was adopted.[101]

On January 22nd Senator Charles Beardsley of Burlington offered a resolution inviting the Code Commission to seats on the floor of the two houses during the consideration of the report.[102] After being referred to the Joint Committee on the Revision of the Statutes, the resolution was adopted by both the House and the Senate.[103]

95 *House Journal,* 1872, p. 95.

96 *Senate Journal,* 1872, p. 44.

97 *House Journal,* 1872, p. 102.

98 *Senate Journal,* 1872, p. 51.

99 *House Journal,* 1872, p. 113.

100 *House Journal,* 1872, pp. 157, 158.

101 *Senate Journal,* 1872, p. 101; see also *House Journal,* 1872, p. 176.

102 *Senate Journal,* 1872, pp. 54, 55.

103 *Senate Journal,* 1872, p. 73; see also *House Journal,* 1872, p. 139.

The Joint Committee on the Revision of the Statutes, which was appointed to report the best method of considering the report of the Commissioners reported on January 24th by offering a concurrent resolution which provided for dividing the report among the various committees of the two houses.[104] When any part of the proposed code came on for consideration the committees of the two houses should consider it jointly, and after consideration report to their respective houses through a Joint Committee of Revision, which should be composed of five members from each house. This report was adopted six days later, on January 30, 1872, by the Senate,[105] but no action seems to have been taken thereon in the House.

On February 19th Mr. John Duncombe of Fort Dodge offered a resolution in the House providing for the consideration of the Code every day at 2:30 P. M. in Committee of the Whole, and detailing the manner of considering the same.[106] After some discussion it was adopted. Senator Charles Beardsley had previously introduced a resolution in the Senate on January 26th, providing that that body should make the consideration of the Code a special order on and after February 19, 1872, which had been adopted.[107] When the nineteenth of February was reached, however, Senator Samuel H. Fairall introduced in the Senate the identical resolution that Mr. John F. Duncombe had introduced into the House,[108] and the same was adopted two days later.[109] It appears that this special order was observed for some time in the consideration of the reports.[110]

104 *Senate Journal,* 1872, pp. 72, 73.

105 *Senate Journal,* 1872, p. 108.

106 *House Journal,* 1872, pp. 216, 217.

107 *Senate Journal,* 1872, p. 81.

108 *Senate Journal,* 1872, p. 151.

109 *Senate Journal,* 1872, p. 165.

110 *Senate Journal,* 1872, p. 188.

During a part of this discussion the legislature ordered two hundred copies of the unbound statutes reported by the codifying Commissioners to be interleaved with blank pages and bound for the use of the members of the General Assembly.[111]

On the 28th of February a new method of handling the proposed Code was suggested to the Senate by a resolution introduced by Senator Samuel McNutt of Muscatine.[112] It provided that after the 29th of February each chapter the contents of which contained a separate subject should be considered as a bill, "and numbered code bill No. 1, No. 2, and so on." Senator Robert Lowry of Davenport also proposed that no member be allowed to talk longer than five minutes while in Committee of the Whole on the revision of the statutes.[113] On the same date, in the House, Mr. Henry O. Pratt of Charles City introduced a resolution calling on the State Printer "to furnish to the General Assembly fifty pages per day of the laws as reported by Code Commissioners, and if he cannot furnish the quantity named herein to report why he cannot do so."[114] After passing the House this resolution was referred to the Judiciary Committee in the Senate and seems never to have been reported back to that body.[115]

On the last day of February Senator James S. Hurley of Wapello, the chairman of the Senate Judiciary Committee, offered a concurrent resolution providing for the printing of two hundred copies of parts three and four of the revised statutes, which was adopted by both houses.[116] All

111 *Senate Journal,* 1872, pp. 160, 164; see also *House Journal,* 1872, pp. 234, 245, 269.

112 *Senate Journal,* 1872, p. 210.

113 *Senate Journal,* 1872, p. 211.

114 *House Journal,* 1872, p. 306.

115 *House Journal,* 1872, p. 306; see also *Senate Journal,* 1872, pp. 219, 223.

116 *Senate Journal,* 1872, p. 218; see also *House Journal,* 1872, p. 313.

the parts were interleaved with blank pages and these, when bound, formed the proposed code described above.[117]

On reading the journals of the two houses one is surprised to find so many plans proposed to consider the report of the Code Commissioners. It appears that no sooner had one plan been settled upon until another was adopted in its stead. By the sixth of March the House had only reached part three in its deliberations,[118] and on the next day Mr. Henry O. Pratt of Charles City offered the following resolution:

Resolved by the General Assembly of the State of Iowa, That it will adopt and pass the new Code, as reported by the Code Commissioners, without including therein the amendments thereto reported and recommended by said Commissioners. And that the Judiciary Committees of the Senate and House of Representatives are hereby constituted a joint committee of the two houses, and are hereby instructed to prepare and report the necessary bill, or bills, to pass and enact said new Code. And,

Be it further resolved, That the amendments reported and recommended to said Code by said Commissioners, in their printed report, be made the subject of separate bills, with a view to have the same afterwards incorporated into the body of said Code in their appropriate places.[119]

This resolution was considered on the following day, while a similar resolution was indefinitely postponed.[120]

One of the most important steps taken by the legislature in connection with the proposed code took place in the Senate on March 5th, when Senator Samuel Fairall introduced the following concurrent resolution:

That on the 27th day of March at 11 o'clock, A. M., this General Assembly do adjourn to meet again on the first Tuesday of February, 1873, at 10 o'clock A. M. to consider and act upon the report

[117] See note 87 above.

[118] *House Journal,* 1872, p. 372.

[119] *House Journal,* 1872, p. 373.

[120] *House Journal,* 1872, p. 387.

of the commission to revise the statutes, and upon the statutes as rewritten and arranged by the commissioners.

That said adjourned session be held for a time not exceeding 30 days, and that no bills be received or considered except such as pertain to the business of said session as above indicated, and to the appropriations to defray the expenses of such session and the publication of the code.[121]

This resolution caused considerable comment and Senator Samuel McNutt immediately proposed a substitute, providing that after certain dates no new bills or other general legislation should be considered.[122] Senator John Y. Stone of Glenwood also introduced a resolution which was referred to the Special Committee on Revision, declaring it to be the desire of the General Assembly "that the revision of the code made by the commissioners should be approved and adopted, and that said commissioners should be continued to incorporate into the same the acts of this session, under the same rules and instructions under which they acted in making said revision."[123] Senators Martin Read of Corydon and Frank T. Campbell of Newton also offered resolutions providing for the procedure of the Senate and the consideration of the Code.[124] On March 6th Senator Samuel Fairall again introduced a resolution making the commissioner's report the special order every day at 11 o'clock after March 7th.[125] This, also, was referred to the committee on revision. Later in the day Senator Charles Beardsley of Burlington introduced in the Senate, where it was adopted, a resolution similar to the one offered by Mr. Henry O. Pratt in the House.[126]

121 *Senate Journal,* 1872, p. 243.

122 *Senate Journal,* 1872, p. 243.

123 *Senate Journal,* 1872, p. 244.

124 *Senate Journal,* 1872, p. 244.

125 *Senate Journal,* 1872, p. 257.

126 *Senate Journal,* 1872, p. 263; see also note 119, above.

By March 20th the Senate had reached the point where it passed a resolution ordering its standing committees to report to the Senate their action on the sections of the Code referred to it.[127] On April 8th the Senate commenced the consideration of the "code series" provided for in a previous resolution. Twelve of these bills were passed before the close of the day, the last one being a bill concerning education.[128]

On the following day, April 9th, Senator George M. Maxwell of Iowa Center offered a resolution declaring: "That in the opinion of the Senate, the code cannot be properly considered at this session; and therefore it is our duty to close the general legislation and recommit the code to the commissioners under a law to be passed by this General Assembly."[129] Senator Benjamin F. Murray of Winterset offered a substitute fixing a day of adjournment and the date of meeting of the adjourned session. The substitute prevailed over the original motion, but on the vote on the resolution as amended it was defeated.[130]

Mr. John Beresheim of Council Bluffs offered in the House on April 10th what was perhaps the most important resolution of the session relative to the Code, when he proposed a concurrent resolution calling for adjournment on April 16, 1872, and the assembling in adjourned session in February, 1873, at which time nothing but the proposed code was to be considered.[131] The reasons for this move, as stated in the preamble, were four in number. It seems that the State Printer had not furnished part one to the members of the General Assembly until a late date, that the time had been too short to make a thorough examination,

[127] *Senate Journal,* 1872, p. 368.

[128] *Senate Journal,* 1872, pp. 509–514.

[129] *Senate Journal,* 1872, p. 527.

[130] *Senate Journal,* 1872, pp. 528, 529.

[131] *House Journal,* 1872, pp. 664, 665.

that numerous mistakes had been made in the printed bills, and that the Commissioners needed more time to perfect the work. Consequently, "in order to enable a more thorough examination by the Commissioners, and to provide for the incorporation of the laws of the present session into the Code," the resolution to meet in adjourned session was introduced.[132]

After a great amount of legislative sparring the resolution passed the House with an amendment as to date of adjournment, and was transmitted to the Senate.[133] Senator Benjamin F. Murray proposed to have a joint committee take the place of the Code Commissioners in examining the report during the recess of the legislature,[134] but this amendment was declared out of order. Upon being voted upon for engrossment it failed of passage, but on the following day, on April 12th, the bill was, on motion of Senator William Larrabee, reconsidered and passed.[135]

On April 17, 1872, Senator James S. Hurley from the Committee on the Judiciary reported Senate File No. 271, which was "a bill for an act providing for the revision and amendment of the statutes by a commission".[136] When this bill was considered two days later the old commission, consisting of Seevers, Knight, and Hammond, was reappointed and instructed to prepare the Code in the form of bills ready for passage.[137] The bill with a slight amendment passed the House by a vote of 67 to 2.[138]

132 *House Journal,* 1872, p. 664.

133 *House Journal,* 1872, pp. 669–672.

134 *Senate Journal,* 1872, p. 552. Senator Murray's resolution called for a joint committee composed of Senators James S. Hurley, Joseph W. Havens, and Samuel H. Fairall, and Representatives Henry O. Pratt, Benton J. Hall, and William C. Evans.

135 *Senate Journal,* 1872, pp. 555–557, 565, 566.

136 *Senate Journal,* 1872, p. 610.

137 *Senate Journal,* 1872, pp. 661, 662.

138 *House Journal,* 1872, p. 861.

Just before adjourning the Senate passed a concurrent resolution providing for the distribution to each county auditor of two copies of parts one and two of the code as prepared by the codifying Commissioners.[139] On the same day Mr. James Wilson of Buckingham while reviewing in the course of his farewell speech the labors of the session, commented on the proposed Code as follows:

> We have had a new revision of the laws before us and in our committees much of the session, which has prolonged its duration, but its magnitude and importance required more time than could be given it while the usual session work demanded our attention, which work we find increases as the State grows in population, and her varied industries expand.[140]

It is, indeed, very difficult to trace with any degree of clearness the legislative action on the Code during the session of 1872.[141] The General Assembly met on January 8th and adjourned on April 23rd, and in this period of nearly four months the members seemed at a loss to decide upon the proper method of considering the proposed Code. Strong leaders were in both houses — some of the strongest men who ever held seats in the legislature of Iowa — and the Code was prepared by able and distinguished men, yet at the close of the session very little had really been accomplished.[142] It served, however, to emphasize three

139 *Senate Journal,* 1872, p. 737.

140 *House Journal,* 1872, p. 911.

141 A bill having a bearing on the proposed code but not considered in the paper was House File No. 289, "A bill for an act to provide for the publication of such laws as the Census Board may direct, in newspapers, and prohibiting the publication at public expense of the new code, and certain local laws." — *House Journal,* 1872, pp. 339, 624. A list of amendments to the *Revision of 1860* may be found in *House Journal,* 1872, pp. 993–995, and in the *Senate Journal,* 1872, pp. 800–802.

142 Some of the leading men at this session of the General Assembly were James Wilson, John H. Gear, John P. Irish, John A. Kasson, and John F. Duncombe in the House; and William Larrabee, John Y. Stone, and Samuel H. Fairall in the Senate.

facts: that in creating a code of statutory law sufficient time is an important element in its preparation, that it can be best considered at a session where it will be the only question to be discussed, and that the directions to the compilers should be definite and at the same time comprehensive.[143]

Senate File No. 271, which was approved on the last day of the session, was similar to the act creating the Code Commission in 1870. The same men were re-appointed and instructed "to revise the statutes, including those of the present session, and prepare a compilation thereof, with such amendments thereto, as they deem proper". The act further provided that the Code should be prepared in the form of bills with the amendments in different kind of type from the existing law. Four hundred copies of these bills were to be printed and sent to the members of the legislature. The Commissioners were also given the privilege of printing "brief explanations of their recommendations, which shall accompany the bills by them prepared."[144]

The legislature was criticised by the press in no unlimited degree during this session and the criticism proved to be both friendly and otherwise in regard to its action on the Code. The *Burlington Weekly Hawk-Eye* of January 25, 1872, describes the reception of the report and manuscript Code and the action taken thereon.[145] An excellent summary of the legislative action is also to be found in this paper on March 14th. It declares that:

143 The law creating the Commission of 1872 was in many respects sufficiently definite and comprehensive. It seems, however, that it could have been so worded that the Commissioners would not have had any doubts whatever as to their powers. The Code Commission of 1896 in its report declares that the Commission in 1872 prepared its report "with a somewhat restricted view of its powers" and that it "was to some extent unsatisfactory".— p. 2. This evidently would have been avoided had the Commission of 1872 been given specific directions and an ample amount of time.

144 *Laws of Iowa,* 1872 (Private), pp. 106, 107.

145 *Burlington Weekly Hawk-Eye,* Thursday, January 25, 1872, 3rd col. p. 4.

The Legislature has been in session nearly two months. The work done in that time does not make a large showing. A United States Senator was elected — that took the better part of two weeks. In about ten days or two weeks thereafter a recess was taken, which consumed nearly two weeks more. Since coming together after the recess three weeks more have elapsed, and the real work of the session still remains to be done.

Your readers must not understand that the members have been idle, or that they are less intelligent or less industrious than their predecessors. About the usual number of bills have been introduced — something over one hundred and fifty in the Senate and about one hundred more in the House. The larger part of these bills have been considered in committee, and have necessarily involved a good deal of labor. A good many local bills have been passed — such as legalizing the illegal and informal acts of notary publics, school officers, and various corporations. The bills of general importance which have become laws may be counted on the fingers of one of your hands. The appropriation bills, the bills proposing to regulate railroad tariffs and railroad taxation, and various other general subjects, although some of them have received some attention in committee, nearly all remain to be considered by the two houses. The present indications are that these important matters will have to be gone through with hastily, or the session will be prolonged beyond the middle of April.

It was felt at the beginning of the session that the consideration of the Revision of 1860, as proposed by the Code Commissioners, would be a work of great magnitude, and one that would tax the energy and resources of the members to get through in a reasonable time and in a reasonably satisfactory manner. So at an early day a committee was appointed to devise the best plan for taking up and accomplishing that work. The Revision of the Commissioners was still in manuscript, their printed "report" being only an account of what they had done, and their manner of doing it, together with the few amendments proposed and the reasons therefor. The committee on revision decided that the first thing to be done was to put the manuscript in type, and parts one and two were placed in the hands of the State Printer. It was further decided that, when printed, the various Titles and Chapters should be referred to appropriate standing committees of the two Houses. The major portion going to the Judiciary, who were to meet in joint sessions.

Then there was to be a standing joint committee of the two Houses on revision, through whom all the other standing committees were to report to their respective Houses. This was the plan agreed upon reported and adopted.

So much was done before the recess. After re-assembling, the committees were a little slow in taking hold of the work assigned them, and in an evil hour a different plan for considering the Code was submitted and approved. This was for the respective houses to go into the committee of the whole, and take up and consider the recommendations of the commissioners as found in their printed "report." The first thing considered were those parts of the old Code, or rather the recommendations of the commissioners in relation to such parts as were marked "obsolete," "omitted," and "superseded." With scarcely any examination or verification, the work of the commissioners on these points was pronounced all right! Then came the proposed amendments. Two or three hours each day for a week have been spent by either house under this head, the respective bodies sitting in committee of the whole. The progress made has been very slow and very unsatisfactory. Nothing has been completed — and really nothing done, for the whole work will have to be gone over again when the same matters come to be finally acted on in the two houses.

It is now pretty evident to every one that the plan first proposed was the best, and that it will have to be returned to, if the Code is put into shape this session. A very large part of the work can be done much better as well as much more expeditiously by small committees, than by a committee of the whole house. And it would seem that one of two things will have to be agreed upon without much delay: either some rational and practical method of considering the code will have to be adopted and vigorously worked up to, or all idea of completing the work at this session (if adjournment is to take place at the usual time) will have to be abandoned. A few days will probably decide the matter.[146]

A few days before the close of the legislative session, "X.", the correspondent to a Burlington paper, in writing of the determination to adjourn, declared that such an act would be greeted with dissatisfaction by the people of the State. He further declared that had the original plan of

[146] *Burlington Weekly Hawk-Eye*, Thursday, March 14, 1872, p. 6.

considering the Code been adhered to it could have been completed.[147] *The Dubuque Weekly Times* was also very much opposed to an extra or adjourned session and urged the legislature not to call one, but to recommit the Code to the Commissioners with instructions to report at the next regular session of the General Assembly.[148]

Mr. John P. Irish of Iowa City, editor of the *Daily Press,* wrote from Des Moines on February 19, 1872, as follows:

> So closes the week with but little work done. The people may well be astonished at the small results of the session thus far. There is a reason for this however that is not disreputable. The revision of the code is an immense work. The Commissioners, of whom our Prof. Hammond is one, have made an elaborate report, characterized by great ability and sound common sense. This report has to be traversed and each title, chapter and section enacted into a law. Nearly every matter of general legislation to be acted upon this winter is necessarily a part of this code. As for instance the proposed amendments to the revenue law changing penalties on delinquent taxes and the method of securing title to delinquent lands. The problem is whether we will wait until we are considering the report of the Code Commissioners, will wait until we reach the chapter on revenue, and therein insert the amendment, or whether we will go on and adopt the entire report of the commissioners, the same as any other law, then proceed with our legislation as usual, and at the end of the session authorize the same Code Commissioners to take the statutes which we pass this winter and incorporate them in their proper place in the Code, and then publish the whole as the "Code of 1872." No matter which way we approach the question it is full of difficulty. The Judiciary Committees are considering the matter and we will soon have it in shape.[149]

147 *Burlington Weekly Hawkeye,* Thursday, April 18, 1872, p. 1.

148 *The Dubuque Weekly Times,* Vol. XX, No. 11, Wednesday, March 13, 1872, p. 1, col. 1.

149 *Daily Press* (Iowa City), Monday, February 19, 1872.

Another paper, in giving the news of the legislature remarked: "The new Code will undoubtedly be allowed to go over to the session two years hence. Or perhaps an extra session may be called next winter, to consider the Code. It would no doubt take at least three months to perfect the new Code."— *The Clinton Age,* Vol. IV, No. 47, Friday, March 8, 1872.

Despite the fact that the Code failed of passage in the regular session of the Fourteenth General Assembly, much important general legislation was enacted.[150] Some of the more important acts provided for the taxation of railway property,[151] for the levy of a tax for the building of libraries,[152] for the abolishment of capital punishment,[153] for the improvement of the State Library,[154] for the inspection of coal mines,[155] for the building of a new penitentiary[156] and for water-works in cities.[157] All these, and many other laws passed at this session were delivered to the Code Commission to incorporate into the bills they were ordered to report by January 1, 1873.[158]

THE SECOND REPORT OF THE COMMISSION

The second code proposed by the Commissioners was reported by titles, each one of which was printed as a legislative bill ready for enactment by the General Assembly.[159] At the end of each section is a citation showing from what act the section was taken, and in some instances, there are explanatory notes of the sections of the proposed work. One of the changes to be noted in part one is the creation of an Executive Council to take the place of the Census Board.[160] In Title IV the law in regard to libraries has

150 See *Proceedings, Pioneer Law-Makers Association of Iowa,* 1894, p. 85.

151 *Laws of Iowa,* 1872 (Public), Ch. 26, pp. 29–32.

152 *Laws of Iowa,* 1872 (Public), Ch. 17, pp. 18, 19.

153 *Laws of Iowa,* 1872 (Public), Ch. 136, pp. 139, 140.

154 *Laws of Iowa,* 1872 (Public), Ch. 92, pp. 98–100.

155 *Laws of Iowa,* 1872 (Public), Ch. 44, pp. 53, 54.

156 *Laws of Iowa,* 1872 (Public), Ch. 43, pp. 49–52, also Ch. 108, pp. 111, 112.

157 *Laws of Iowa,* 1872 (Public), Ch. 78, pp. 80–82.

158 *Laws of Iowa,* 1872 (Private), Ch. 97, Secs. 1–3, p. 106.

159 In citing the second work prepared by the Code Commissioners it will be called, *Proposed Code,* 1873, in order to distinguish it from the *Code of 1873.* The exact title of the *Proposed Code,* 1873, is *The Code of Iowa,* which might in some instances be confusing.

160 *Proposed Code,* 1873, Title II, pp. 16, 17.

been rewritten to a considerable extent,[161] and in Title V a new form of oath was proposed for all civil officers.[162] A considerable number of changes are to be found in part two, which relates to private law.[163]

One of the most important changes in this part was chapter eleven on "Easements in Real Estate", which was taken from a statute passed by the Rhode Island legislature a short time before and which had been enacted prior to that time in Massachusetts.[164] All changes or amendments were printed in italics and it was thus made very easy to determine what was existing law and what was the work of the Commissioners.[165]

Owing to the preparation of the titles as separate bills the paging of this proposed code is not consecutive, but each bill is paged separately. There are, in all, twenty-six titles in the proposed work and it makes, when bound together, a large quarto-sized book.[166]

LEGISLATIVE ACTION AT THE ADJOURNED SESSION

The adjourned session of the legislature was to meet on the third Wednesday of January, 1873.[167] From some quarters there appears to have been some opposition to such an adjourned session and in commenting thereon the editor of *The Dubuque Weekly Times* urged that there be an immediate adjournment and that the Code Commissioners be

161 *Proposed Code,* 1873, Title IV, p. 22.

162 *Proposed Code,* 1873, Title V, p. 11.

163 As has been noted elsewhere in this paper, part two of the *Revision of 1860* was not codified, but an attempt was made simply to arrange the existing laws.— *Revision of 1860,* Preface, p. iv.

164 *Proposed Code,* 1873, Title XIII, p. 15.

165 *Laws of Iowa,* 1872 (Private), p. 106.

166 The volume of the *Proposed Code,* 1873, used by the writer has the following inscription on the fly-leaf: "Presented to the State Historical Society at Iowa City, March 5th, 1873, by Wm. G. Hammond, one of the Commissioners for the Revision of the Statutes".

167 *Laws of Iowa,* 1872 (Private), p. 130.

allowed still another year in which to consider their report. This suggestion was made because the cost of the adjourned session would be, according to the writer, between forty and fifty thousand dollars, which would be a hard drain on the State treasury at that particular time.[168] After the legislature met the same paper declared that "they will, [the legislature] we venture to predict, find in the Code an important work well done, and in a shape that will demand little revision. Since it appears that the General Assembly are not disposed to adjourn at once and go home, leaving this work till the next regular session, let it dispose of the code promptly, during long daily sessions well filled with hard work in which buncombe has no share, and adjourn as soon as they can and do well the duties devolving upon them."[169]

On January 15, 1873, the Fourteenth General Assembly met in adjourned session and immediately began the consideration of the Code.[170] Mr. John A. Kasson, in the House, offered a resolution which contained six rules outlining the methods to be pursued in considering the Code.[171] This was referred to a select committee of the chairmen of the different standing committees of the House, who reported the resolution back on the following day with the recommendation that it pass.[172] Shortly afterwards, however, a concurrent resolution was received from the Senate providing that one house should consider all the even numbered titles and the other house the odd numbered titles and that neither house should consider bills submitted to the

168 *The Dubuque Weekly Times,* Vol. XXI, No. 52, Wednesday, January 1, 1873.

169 *The Dubuque Weekly Times,* Vol. XXI, No. 3, Wednesday, January 22, 1873.

170 *House Journal,* 1873, p. 3.

171 *House Journal,* 1873, p. 4.

172 *House Journal,* 1873, p. 5; see also p. 6.

other house, until such other house had finished its consideration and committed it to the opposite branch of the legislature.[173] This plan appeared to meet with favor, as the resolution was accepted by both houses.[174]

On the opening day in the Senate a committee, consisting of Senators Charles Beardsley and John J. Russell, was appointed to ascertain the condition of the work of the Code Commission — how much had been completed and the portion yet remaining to be done.[175] Their report on the following day showed that one title was yet in the hands of the Commission and that the remainder had been printed or was in the hands of the printer.[176]

During the latter part of January a Senate concurrent resolution was introduced providing for the appointment of a committee of five to provide for the publication of the Code.[177] From the Senate there were appointed Senators James S. Hurley and Samuel H. Fairall. Representatives John W. Green, George Paul, and John A. Kasson were appointed from the House.[178] A joint resolution adopted at about the same time provided that no acts of the adjourned session should be made a part of the Code unless an act to that effect were subsequently passed.[179]

In commenting upon the joint committee above mentioned a prominent newspaper remarked:

[173] *House Journal,* 1873, p. 9. See also *Senate Journal,* 1873, p. 14. A list of the bills introduced in both houses relating to the revised statutes may be found in the *House Journal,* 1873, p. 7, and also on pp. 40, 41, 294–296, 302, 303; and in the Senate Journal, 1873, pp. 4, 6–8, 357, 358, 364–367. A complete list of amendments made by the General Assembly to the report of the Code Commissioners may be found in *House Journal,* 1873, pp. 221–288.

[174] *House Journal,* 1873, p. 10; see also *Senate Journal,* 1873, p. 16.

[175] *Senate Journal,* 1873, p. 8. See also p. 9.

[176] *Senate Journal,* 1873, p. 11.

[177] *Senate Journal,* 1873, pp. 53, 71; *House Journal,* 1873, pp. 42, 45.

[178] *Senate Journal,* 1873, p. 75; *House Journal,* 1873, p. 49.

[179] *Senate Journal,* 1873, pp. 64, 65, 68, 71; *House Journal,* 1873, pp. 40, 41.

The committee appointed to prepare a bill for printing the Code, have one drafted, and it will probably be presented in a day or two. It is expected that Judge Wm. H. Seevers, of Oskaloosa, one of the Commissioners will be selected to edit the work and superintend the printing. The Code as now prepared will be somewhat smaller than the Revision of 1860, the laws being a good deal condensed, and much unnecessary matter that finds a place in the old, being left out in the new. Should the work be done by the State Printer and Binder, as the bill spoken of proposes, it can be completed and ready for distribution, two or three months before the time that it is to go into operation, which is fixed at September first.[180]

During the adjourned session the legislature appears to have exhibited a great deal of energy and ability in its consideration of the Code and to have labored hard to complete it in the shortest practicable period.[181] In the House Mr. John A. Kasson appears to have taken a leading part, being chairman of the Committee of the Whole House;[182] while Mr. James S. Hurley in the Senate, chairman of the Judiciary Committee, was foremost in pushing the work in the upper house. The press almost without exception described the legislature as a hard-working body and a correspondent to *The Dubuque Weekly Times* declared that the "venerable and somewhat noisy gassers have settled down to a season of silence!"[183] The editor of the same paper in a later number informed his readers that "the

180 *Burlington Weekly Hawk-Eye,* Thursday, February 6, 1873.

181 In speaking of the work on the Code, Mr. John P. Irish writes: "It is hard to hold the Houses to the dull work of codifying. There are no 'field days' as of old, and the lobbies are either entirely vacant or peppered only by a few bored and drowsy spectators."—*Daily Press* (Iowa City), February 1, 1873. Despite this statement a large amount of work was accomplished daily, as a reading of the journals of the two houses will clearly show.

182 On the last day of the session the House of Representatives adopted the following resolution: "That we tender to Hon. J. A. Kasson our thanks, for his kind and efficient labors as chairman of committee of the whole."—*House Journal,* 1873, p. 217.

183 *The Dubuque Weekly Times,* Vol. XXI, No. 3, Wednesday, January 22, 1873.

legislative work of codifying the laws goes on with an industry and success that seems sure in its promise that at the end of thirty days the session will come to the close intended."[184]

Honorable John P. Irish declared that "the work on the Code progresses and attracts but little notice. Public attention is largely focussed upon the Rankin investigation and the attempt to force the State institutions to pay back into the treasury a moiety of their appropriations."[185] While the legislature was considering part three the same editor wrote as follows:

> The Legislature is now working on the practice part of the code and the lawyers are shooting *demurrers, certioraris, suppoenos, procedendos,* and other Latin litter at each other in a way to confuse us laymen.[186]

During the last day of the session a joint resolution was passed which excluded all private and temporary acts from the Code.[187] Previously, however, on the 8th of February, Senator James S. Hurley from the select committee had reported a bill providing for the publication of the Code.[188] After being considered, ten days later, the bill appears to have been dropped and House File No. 32 substituted. This was also a bill providing for the publication of the Code.[189] This bill had passed the House on February 18th by a unanimous vote and passed the Senate on the day following by a vote of 37 to 2.[190]

184 *The Dubuque Weekly Times,* Vol. XXI, No. 6, Wednesday, February 12, 1873.

185 *Daily Press* (Iowa City), Thursday, January 23, 1873.

186 *Daily Press* (Iowa City), Wednesday, January 29, 1873.

187 *House Journal,* 1873, p. 214; *Senate Journal,* 1873, pp. 345, 346. See also *Laws of Iowa,* 1873, p. 25.

188 *Senate Journal,* 1873, pp. 187, 306. Methods of considering the proposed Code are also to be found in *Senate Journal,* 1873, pp. 107, 190, 191.

189 *Senate Journal,* 1873, pp. 293, 308–10, 325, 326, 328. Also *House Journal,* 1873, pp. 168, 180, 181, 199, 200.

190 *Senate Journal,* 1873, p. 328.

The act which was thus passed provided that William H. Seevers be employed at a salary of $2,000 to edit the Code and deliver the same to the State Printer as soon as possible. The State Printer in turn was to print fifteen thousand copies, which should contain marginal notes and a complete index. In addition, the Declaration of Independence, the constitutions of Iowa and the United States, and the naturalization laws were to be included in an appendix. The binding was ordered to be done by the State Binder, who was to begin his part of the work not later than May 1, 1873. Five thousand copies were to be distributed among the counties for sale at three dollars per volume, the Secretary of State being allowed twelve hundred dollars for the work of distribution.[191]

The work of the adjourned session seems to have been quite universally approved by the press of the State. A Clinton paper, after calling attention to the fact that the session had lasted only thirty-six days, declared that the members had possessed a spirit of hard work, no member had "made a long speech and the short ones have been brief and to the point."[192] In commenting on the Code itself the same paper made the following suggestion: "Let the new Code go into operation and be tested in all its divisions before a spirit of criticism is indulged in."[193] *The Cedar Rapids Times* remarked that "the main object — the revision of the Code — has been the principal and almost the only thing accomplished, since nearly all the proposed changes in existing laws have been defeated, including the one re-establishing capital punishment. But this revision has been a great work of itself, and if done well will have been sufficient work for a session of thirty-six days."[194]

191 *Laws of Iowa,* 1873, Ch. IX, pp. 13–15.

192 *The Clinton Age,* Vol. V, No. 46, Friday, February 28, 1873.

193 *The Clinton Age,* Vol. V, No. 46, Friday, February 28, 1873.

194 *The Cedar Rapids Times,* Vol. XXII, No. 21, Thursday, February 27, 1873.

The same paper said of the legislature that it had "performed its work speedily and well."[195]

Even the papers that were opposed to the adjourned session were forced to admit the diligence displayed in passing the proposed code, as the following quotation from *The Dubuque Weekly Times* will bear testimony:

> The legislature adjourned yesterday *sine die,* having finished the Code, and passed a few of the inevitable legalizing acts. Unnecessary as we believe the session to have been, we cannot but do the members the justice of saying that they have worked with commendable diligence since they came together at this adjourned meeting, and that we believe their work to have been generally well done. Had a little of the spirit manifested at this session actuated the members in the last, the $45,000 which the session has cost might have been saved to the State.[196]

CHARACTER AND CONTENTS OF THE CODE OF 1873

The *Code of 1873* was of the same size as the *Revision of 1860,* though containing one hundred twenty-one less pages.[197] It took effect on September 1, 1873, and provided that "all public and general statutes passed prior to the present session of the general assembly, and all public and special acts, the subjects whereof are revised in this code, or which are repugnant to the provisions thereof, are hereby repealed, subject to the limitations and with the exceptions herein expressed."[198]

[195] *The Cedar Rapids Times,* Vol. XXII, No. 21, Thursday, February 27, 1873.

[196] *The Dubuque Weekly Times,* Vol. XXI, No. 8, Wednesday, February 26, 1873. Good accounts of the proceedings of the legislature can also be found in the above paper on Wednesday, January 22, 1873, and on Wednesday, February 5, 12, and 19, 1873; in the *Daily Press* (Iowa City), Thursday, January 30, 1873; and in the *Burlington Weekly Hawk-Eye* of Thursday, February 13, February 27, March 6, and March 13, 1873.

[197] The copy used by the writer in the preparation of this article was formerly Governor Kirkwood's copy and bears his signature on the cover.

[198] *Code of 1873,* Sec. 47, p. 9. See also Sec. 49.

In the first volume of the interleaved edition of the *Code of 1873* the title page is slightly different from the title page in the regular volume, giving G. W.

There is no introduction or explanations of particular sections to be found anywhere in the book, and it is also entirely free from extraneous matter, such as annotations or citations to decisions of the Supreme Court. There is, however, an excellent marginal index giving the corresponding section in each case in the *Revision of 1860*. The index is contained in 248 pages, but could be improved upon by the additional use of cross references. The appendix contains only a few of the most important public documents, such as the Declaration of Independence, the Constitution of the United States, and the Constitution of Iowa.

The changes to be found in this Code are so numerous that it is not practicable to discuss them in this connection. One new feature which should be mentioned, however, is the provision for a Circuit Court, which was later repealed by the Twenty-first General Assembly.[199] The proposed code submitted to the General Assembly in 1873 has all the numerous changes and amendments printed in italics. Since this was the first real revision of parts one and two which had been made since 1851 it is only natural that scores of changes are to be found therein.

SUBSEQUENT LEGISLATION

The new Code, however, evidently was hastily or carelessly constructed in some parts, for a considerable number of mistakes soon became apparent.[200] Governor Carpenter

Edwards as the printer and not mentioning R. P. Clarkson, who completed the Code from page 640.

199 *Code of 1873,* Sec. 162, pp. 28, 29.

The Circuit Court had been first established by an act passed during the Twelfth General Assembly.— *Laws of Iowa,* 1868, Ch. 86, pp. 113–120. The act abolishing the Circuit Court is found in the *Laws of Iowa,* 1886, Ch. 134.

200 In the preface to McClain's *Annotated Code and Statutes,* 1888, p. iv, the author declares, "When the first edition of this work was published in 1880, a careful comparison was made between the Code as printed by the authority of the state and the original rolls thereof, duly authenticated and preserved in the office of the Secretary of State. As a result of this examination a considerable number of discrepancies were found."

called attention to the fact that "imperfections, oversights, and errors" were contained in the Code and that these would need correcting. He further suggested that in making amendments the entire section be reprinted in the session laws as amended, in order that all might know what the existing law was.[201] Later writers have also commented upon the discrepancies to be found in the work.[202]

The *Code of 1873* served as the official code of Iowa from 1873 to 1897, but during this time various propositions were made looking toward the reprinting or revision of the laws. On January 13, 1880, Governor John H. Gear in his first biennial message suggested that certain parts of the Code, dealing with the cost of criminal prosecutions, should be repealed, as the resulting expenses were increasing very rapidly. In the same message he stated that seven hundred copies of the Code still remained on hand and that as private individuals were preparing editions of the Code he did not think it advisable for the State to order a reprint. He further declared that "the present Code only went into effect September 1st, 1873, and as it is possible that the voters of the state will declare in favor of a constitutional convention in 1880, which would necessitate much new legislation, it would seem both impolitic and unwise to incur the expense of a re-codification at this time."[203]

Several years later, in January, 1888, Governor William Larrabee stated in his first biennial message that he had addressed letters to the Judges of the State asking them for suggestions relative to amendments which should be

201 Shambaugh's *Messages and Proclamations of the Governors of Iowa,* Vol. IV, pp. 79, 80.

202 Judge Wm. E. Miller in speaking of the discrepancies stated, "In the publication of the State edition of the Code numerous errors occurred, some of which changed the sense and effect of the law."— Miller's *Revised and Annotated Code of Iowa,* 1880, Vol. I, Preface, p. i.

203 Shambaugh's *Messages and Proclamations of the Governors of Iowa,* Vol. V, pp. 71, 85, 86.

made to the statutes. Many of the judges replied proposing changes to be made.[204] The Governor in the same message called the attention of the legislature to the dangers of hasty and ill-planned legislation. He declared:

> I am not, and I feel sure that you will not be, unmindful of the fact that great care should be taken in the change and amendment of our statutes. The whole body of our laws is a growth of many years, and it should not be unnecessarily or lightly interfered with. Only such additions and changes should be made as justice and the public welfare clearly require.[205]

The edition of the Code published in 1873 was, as stated above, practically exhausted in 1880, but the publication of annotated codes by Judge William E. Miller and Mr. Emlin McClain in that year largely did away with the necessity of a new official publication.[206] Had there been no works of a private nature put forth a new code would have undoubtedly been prepared sometime in the eighties.[207] The use of the *Code of 1873* was limited chiefly after 1880 to county and township officers,[208] the members of the legislature generally purchasing the private works for their own use during the sessions of the General Assembly.[209] This was done

204 Shambaugh's *Messages and Proclamations of the Governors of Iowa,* Vol. VI, p. 80.

205 Shambaugh's *Messages and Proclamations of the Governors of Iowa,* Vol. VI, p. 85. At page 195 the Governor said: "The statutes of the territory of Iowa, which are now out of print, ought to be compiled and republished, together with those of the territories of Michigan and Wisconsin affecting Iowa."

206 The history of the private compilations will be dealt with in a subsequent paper.

207 By 1880 there was a large number of amendments, repeals, etc., to the *Code of 1873.* A list of statutes amendatory to the *Code of 1873* may be found in Miller's *Revised and Annotated Code of Iowa,* 1880, Vol. I, pp. xvi–xxi. Also Preface, p. i.

208 *Code of 1897,* Preface, p. iv.

209 One of the first acts in nearly every General Assembly is to order a copy of the Code for each member. After 1880 each member was usually allowed his choice of either McClain's or Miller's work.

for the reason that a vast amount of legislation enacted subsequent to the *Code of 1873* could only be discovered by going through several volumes of session laws, but in either McClain's or Miller's code it was brought down to date.

The legislation subsequent to 1873 concerning the Code does not appear to be of any considerable importance, although some action appears to have been taken at almost every session. In 1874 a joint resolution was introduced in the House by Mr. C. A. L. Roszell of Clarksville providing that when amendments were made to the Code the amended section should be printed in full, but it does not appear to have succeeded in passing.[210] Two years later Mr. Josiah Given offered a similar resolution which was adopted by the House, but appears never to have passed the Senate.[211]

The Senate of 1874 also had its attention called to two special matters relating to the *Code of 1873*. On February 3, 1874, Senator Dennis N. Cooley offered a resolution which was passed directing the Judiciary Committee to ascertain what action would be necessary to so fix the Code and laws that they would be receivable in evidence in the United States Courts. Owing to the fact that the *Code of 1873* did not bear the seal of the State it did not meet the requirements of the federal law in regard to evidence.[212]

A month later, on March 3, 1874, Senator Henry W. Rothert introduced Senate File No. 208 which was "a bill for an act to legalize the edition of the Code of 1873, published by Mills & Co."[213] After being referred to the Judiciary Committee the bill was by them recommended for indefinite postponement.[214]

210 *House Journal,* 1874, pp. 72, 73.

211 *House Journal,* 1876, p. 26.

212 *Senate Journal,* 1874, pp. 73, 74. No further action appears to have been taken by the Senate in this matter.

213 *Senate Journal,* 1874, p. 234. This Code is described below, see p. 218.

214 *Senate Journal,* 1874, p. 255.

In 1878 Representative Frederick M. Knoll introduced "a bill for an act to create a board of commissioners, to codify and revise the school laws of Iowa."[215] Nothing, however, seems to have been done in regard to this bill, but during the last days of the session a joint resolution was adopted providing for the publication and distribution of the school laws of Iowa.[216] An attempt to compile and publish the road laws at this session failed of passage in the House.[217]

Various petitions asking for revisions of the road and school laws were received in the Senate during the Seventeenth General Assembly, perhaps the most important being the one presented by Senator Samuel L. Bestow from the Supervisors' Convention, "asking a general revision of the Code, and the public acts of the Sixteenth General Assembly."[218]

Mr. William J. Knight of Dubuque in 1880 offered a resolution in the House requiring the members of the legislature to either pay for the Codes received at the opening of the session or to return them. The reasons for such a resolution were stated to be the desirability of strict economy, the scarcity of the edition, and the doubtfulness whether or

215 *House Journal,* 1878, p. 52.

216 *House Journal,* 1878, p. 650. See also p. 652.

Though this joint resolution appears by the journals of the houses to have been passed by each, it is not to be found in the laws of that year. Mr. C. C. Stiles, Superintendent of the Department of Classification and Arrangement of the Public Archives of Iowa, in writing of the above resolution declared:

"I find the resolution on file here that you refer to in your letter. The resolution has the following written on the back:

" 'Read 1st. & 2nd. times. Rules suspended and passed the Senate 3/26/78. McCargar, 1st. Asst. Sec.' also written with lead pencil 'passed.' There is nothing to indicate that it passed the House. It does not appear on the record of enrolled bills and resolutions (this record shows the title, date of approval, publication &c) It does not appear in the bound volumes of engrossed bills and resolutions that are on file in the office of Secretary of State."

217 *House Journal,* 1878, pp. 43, 112, 128, 202, 401, 402.

218 *Senate Journal,* 1878, p. 53. See also pp. 45, 106.

not the legislature could donate State property to its members. After creating a considerable amount of comment the resolution was referred to the Judiciary Committee and appears never to have been reported therefrom.[219]

During 1880 Judge William E. Miller and Mr. Emlin McClain prepared compilations of the statute law of Iowa. These works were annotated and embraced the *Code of 1873* as changed by legislation, and the new statutes passed up to the Nineteenth General Assembly. An act passed on March 27, 1880, made Miller's Code receivable in evidence,[220] while McClain's Code was made likewise receivable by an act passed two years later.[221]

A joint resolution was proposed in the House of Representatives in 1884 looking toward a convention of States to secure uniform legislation on various subjects. This resolution was reported upon favorably by the Judiciary Committee, but does not appear to have become a law.[222] Various petitions were presented at the same session praying for a change in the Code and for court reform.[223] On March 1st, Senator Gifford S. Robinson of Storm Lake offered the following resolution which was adopted:

Resolved by the Senate, That the Committee on Printing be instructed to investigate the facts and to report to the Senate as soon as practicable, as follows:

1. The number of copies of the Code, and of the session laws of the Fifteenth and subsequent General Assemblies now in possession of the State, and subject to distribution for the use of public officers.

219 *House Journal,* 1880, pp. 507, 508.

220 Miller's *Revised and Annotated Code of Iowa,* 1880, Vol. I, p. iii.

221 *Laws of Iowa,* 1882, pp. 5, 6.

222 *House Journal,* 1884, p. 346.

223 *Senate Journal,* 1884, pp. 128, 318. The Senate Judiciary Committee was ordered early in the session "to inquire into, and report by bill or otherwise, such amendments as are necessary to the criminal code of the State, to make more certain and speedy the detection, conviction and punishment of criminals and the prevention of crime."— See p. 78.

2. The probable time when the present supply of such copies of the Code and session laws will be exhausted.

3. The necessity, if any, for a revision of the laws, and providing of copies of the same for the use of public officers in the State.[224]

On the sixth of March the committee reported that there were four hundred and fifty copies of the Code on hand, which would supply official needs for about six years.[225]

In 1888 a direct attempt was made to revise and codify the laws. On February 21st Mr. L. A. Riley of Wapello offered House File No. 472, which was "a bill for an act to provide for the revision and codification of the Statutes of Iowa, creating a commission therefor and defining their duties; providing for the publication and distribution of their report."[226] After receiving a number of amendments the bill was passed on April 6, 1888, by the decisive vote of 73 to 2.[227] Owing, however, to the great amount of legislation pending in the Senate this bill failed of consideration and did not become a law.[228]

During the session of the Twenty-fourth General Assembly a large number of petitions were received in the House of Representatives asking for a revision of the revenue laws.[229] The result was the passage of Senate File

[224] *Senate Journal,* 1884, p. 255.

[225] *Senate Journal,* 1884, pp. 281, 282.

[226] *House Journal,* 1888, p. 349.

[227] *House Journal,* 1888, pp. 897, 898.

[228] *Senate Journal,* 1888, pp. 907, 996.

An idea of the great number of changes both in the statutes and in the Code made during this session of the legislature may be gained by looking at the *Senate Journal,* 1888, pp. 1029–31, 1061. In the *Senate Journal,* 1890, p. 31, there may also be found a list of the volumes of the session laws and the quantity of each in the State. In 1890 a bill was also introduced in the House providing for the compiling and reprinting of the Territorial statutes. It appears never to have been reported from the committee to which it was referred. —*House Journal,* 1890, p. 397.

[229] *House Journal,* 1892, pp. 84, 85, 106, 107, 108, 115, 120, 132, 133, 144, 145, 166, etc.

No. 383, which provided for the creation of a tax commission of four persons "to studiously and carefully examine the revenue laws of the state and report necessary and desirable changes to the Twenty-fifth General Assembly."[230] A bill was also introduced in the House the purpose of which was to create a commission "to codify and amend the statutes of Iowa relating to the valuation of real and personal property, the assessment, levying and collection of taxes."[231] The bill, however, never became a law.[232]

The vast amount of legislation passed in the years immediately following 1873 caused the *Code of 1873* to become quickly out of date. This defect was remedied, as has been seen, in 1880 by the preparation of two private works,[233] but it was not until 1894 that the legislature took definite action by appointing in that year a commission to revise and codify the laws.[234] Their report was the foundation of the *Code of 1897* and was in "accordance with the plan finally adopted by the former Commission,"—the Commission of 1873.[235] In addition to being sadly out of date, the *Code of 1873* had likewise been out of print for a number of years.[236]

[230] *Laws of Iowa,* 1892, Ch. 72, pp. 100, 101. The members of this commission were Charles E. Whiting, Charles A. Clark, E. C. Lane, and August Post. These gentlemen reported in July, 1893, recommending a bill for the revision of the State revenue laws.—*Report of the Revenue Commission,* 1893. See also Brindley's *History of Taxation in Iowa,* index.

[231] *House Journal,* 1892, p. 97.

[232] Various compilations of laws have often been issued by the State for the use of a particular class. For instance, the road laws, the school laws and the revenue laws have been issued at various times. These are, however, only a collection of the existing laws on the subject, with a list of forms usually appended.

[233] Miller's *Revised and Annotated Code of Iowa,* 1880, Vol. I, Preface, p. i. Mr. Miller states that the great number of amendments was one of the chief reasons for the bringing out of his Code.

[234] *Laws of Iowa,* 1894, Ch. 115, pp. 111, 112.

[235] *Report of Code Commissioners,* 1896, p. 2.

[236] *Code of 1897,* Preface, p. iv.

THE MILLS AND COMPANY EDITION

The law publishing firm of Mills and Company of Des Moines brought out an edition of the *Code of 1873* in the early summer of that year, about six weeks before the appearance of the official edition. The title page of this edition reads:

> THE CODE: CONTAINING ALL THE STATUTES OF THE STATE OF IOWA, of a general nature, passed at the adjourned session of the Fourteenth General Assembly. Uniform with the edition published by the State. Des Moines, Iowa: MILLS & Co., Law Publishers, 1873.

This edition was printed in three forms. The regular one volume work was printed to page 640 by the State Printer from the same type as used in the official edition, and delivery of the work commenced on July 20, 1873. This volume was sold at four dollars per volume. The entire work contained 738 pages, besides the index which occupied 183 pages.[237] In addition to the regular one-volume edition there was an interleaved form which sold for seven dollars and an interleaved form in two volumes that sold for eight dollars.[238]

The State Census Board, which corresponds to the present Executive Council, evidently did not care to have private concerns compete with the State in the publication of the Code and so on June 23, 1873, it addressed a letter to the Attorney General asking whether or not the State Census Board could "enjoin the publication of the one thousand copies of the code of Iowa, 1873, now being published by Messrs. Mills & Co?"[239]

237 *The Western Jurist*, 1873, Vol. VII, pp. 469, 470.

The writer has not been able to secure a copy of the private edition, either in Iowa City or at the State Library at Des Moines. The title page is consequently copied from the one given in the reviewer's notice.

238 *The Western Jurist*, 1873, Vol. VII, p. 475.

239 *The Western Jurist*, 1873, Vol. VII, p. 473.

The Attorney General, M. E. Cutts, gave as his opinion that as there was no law prohibiting such a work, and that as the State had failed to copyright the official edition, there could not be an injunction issued to restrain Mills and Company from publishing their work.[240]

In commenting upon this episode one leading newspaper remarks:

> It seems queer that anybody would think of such injunction. When it is considered that, although the Code goes into effect Sept. 1st, the State has not a single copy out yet, and probably will not have by that time, while Mills & Co. are already delivering the copies printed by them, it would look more reasonable to vote them public thanks than to subject them to loss in their enterprise by enjoining them. This whole Code business has been botched from beginning to end. The Legislature, in a fit of economy, voted that no part of it should be published in the newspapers. The result is all the important changes made in the Code go into operation in a few days and the people have had no opportunity to know what they are. The old tyrant who posted his laws so high that nobody could see them and then put to death those who violated them, seems to have been the model followed by our law-makers in this matter.[241]

This work, nevertheless, appears to have been issued as advertised and in 1874 an attempt was made to legalize the edition, but the bill was recommended for indefinite postponement by the Senate Judiciary Committee.[242]

CONCLUSIONS

The *Code of 1873* took effect on the first day of September, 1873,[243] and remained in force as the official code of

[240] *The Western Jurist,* 1873, Vol. VII, pp. 473, 474.

[241] *The Western Jurist,* 1873, Vol. VII, p. 475. This is a clipping from the *Muscatine Journal.*

[242] See notes 213 and 214 above. See also *Senate Journal,* 1874, pp. 234, and 255. It is of interest to note that in an act of May 5, 1897, the legislature made it a misdemeanor for any one to publish the laws of the State in competition with the official publication.— *Code of Iowa,* 1897, Sec. 27, p. 5.

[243] *Code of 1873,* Sec. 49, p. 9.

Iowa until ninety days after the adjournment of the extra session of the Twenty-sixth General Assembly.[244] It thus served from 1873 until 1897, a period of twenty-four years. Although having the longest official existence of any Iowa compilation of law, it must not be understood that it was in general use during all this period. In fact, after 1880, its use became less and less each year, the use of McClain's and Miller's codes, on the other hand, becoming greater. It might be safely stated that for a number of years the *Code of 1873* was so out of date that it was rarely if ever used.[245]

The *Code of 1873* was prepared by three men of high scholarship and great learning in the law. The work was carefully reviewed in the legislature, at two different periods, by men of ability and with an accurate knowledge of the needs of the State. The result was one of the best codes ever prepared in the State of Iowa. It attempted to condense the acts of the legislature and the existing laws into the fewest possible words, consistent with clearness and the intent of the law-makers. Where an improvement could be made, the Commissioners had the power to and often did alter the phraseology of the existing law.

The *Code of 1873* is free of all luggage. It contains no remarks, introduction, preface, or annotations. It attempted to give the law in a logical and orderly method, in clear and unambiguous language, capable of being understood by all; and although not the equal of the *Code of 1851,* it succeeded admirably in realizing the hopes of its makers.

CLIFFORD POWELL

THE STATE HISTORICAL SOCIETY OF IOWA
IOWA CITY

244 *Code of 1897,* Sec. 50, p. 126.

245 *Code of 1897,* Preface, p. iv.

AN EMINENT FOREIGNER'S VISIT TO THE DUTCH COLONIES OF IOWA IN 1873

TRANSLATED FROM THE DUTCH BY JACOB VAN DER ZEE

[The Rev. Dr. M. Cohen Stuart, delegate from The Netherlands to the sixth conference of the world's Evangelical Alliance, came to New York City in the month of September, 1873. After participating in the meetings of this Protestant congress, Mr. Stuart journeyed westward by way of Niagara Falls and received a hearty welcome among thousands of Hollanders in Michigan. Thence he continued to Chicago, and to Pella and Orange City[1] in Iowa, and returned eastward by way of the States of Minnesota and Wisconsin.

As a result of these travels, Rev. Stuart composed and published nearly seven hundred pages of impressions and reminiscences based directly on notations in his diary. Chapter XI of this excellent work: *Zes Maanden in Amerika* (Six Months in America), is devoted to the States of Iowa, Minnesota, and Wisconsin. Only that portion which concerns life in Iowa is presented in the following pages.

That Mr. Stuart was a shrewd observer and a brilliant writer will be apparent to the average reader.[2] It is a fact that many of the unique details of American history have been preserved only in the writings of competent persons who came from abroad and looked at America's novel conditions from the foreigner's point of view. In this way there has come to be recorded in the languages of Europe much that an American contemporary would have considered trivial and commonplace, too modest perhaps or even too short-sighted to realize that later generations alone should be the judges of what is valuable and what is worthless in the occasional scraps of the history of social, religious, and political institutions.[3]— TRANSLATOR.]

Pella, November 21.

Once again we find ourselves at home, among fellow-countrymen and fellow-believers.

[1] Shortly after their arrival in the eastern States, Rev. and Mrs. Stuart received an urgent invitation from Mr. Henry Hospers of Orange City to visit the settlement of Hollanders in northwestern Iowa.

[2] As an illustration of the inquisitiveness of Yankee newspaper reporters, Mr. Stuart preserved the following bit of news about himself in the *New York Herald:* "The pastor is the son of a converted Jew, who, on his marriage with a descendant of a Scotch emigrant, added her name of Stuart to his own of Cohen, which signifies 'Priest'. Thus his children bear the royal Scottish name."

[3] De Tocqueville in 1832 wrote that he was convinced that "in fifty years

On Tuesday, the 17th, we left Chicago at a late evening hour. The entire family of our host: his son, the doctor, his son-in-law, de Boer, and their wives, accompanied us on the street cars and conducted us to the station of the Chicago, Burlington and Quincy R. R., whence we were to depart by the night train.

This time, we were told, we should miss little by reason of the night journey, since the northern part of Illinois through which we should travel is a fairly monotonous stretch of level country. So we found room in a very beautiful "sleeping car" furnished more luxuriously than any I have ever seen.[4] In the middle of the coach in two apartments opposite one another, stood a handsome, comfortable writing-table and a pretty little organ, on which Dr. de Bey, a musician at heart, who plays the organ in his father's church on Sundays, allowed us to hear some notes before he left.[5] But we had no intention to avail ourselves of either of these two pieces of furniture. The quickly unfolded berth was more valuable to us then; and in my sleep I certainly did not feel that I was being pulled along in a flying carriage any more than one awake or asleep is conscious of the earth's turning upon its axis.

Next morning day has dawned long before I dress; and

it will be more difficult to collect authentic documents concerning the social conditions of the Americans at the present day than it is to find remains of the administration during the Middle Ages; and if the United States were ever invaded by barbarians it would be necessary to have recourse to the history of other nations in order to learn anything of the people which now inhabit them".

[4] In a footnote Mr. Stuart adds: "The 'Pullman's car' recently put into service on the line between Brussels and Cologne, which also appeared at some of our stations in Holland and rightly attracted very much attention, may be a fair specimen of the genus, but is no match for the handsomest ones to be seen in America."

[5] Rev. de Bey later became a resident of Orange City, Iowa, and died there recently at the age of ninety-four. His son, Dr. Albert de Bey, for many years a well-known physician and surgeon in northwestern Iowa, is a member of the State Board of Health.

I rise then to look at something which repays rising and looking. We are, so they say, at the most beautiful, the only truly beautiful point of the whole journey: Burlington, just on the boundary between Illinois and Iowa. This boundary consists of the Mississippi; and the little city, a flourishing place of business of nearly 16,000 souls, the center of various railroads, is built upon the banks of the river: East Burlington belongs to Illinois, West Burlington to Iowa. From the great railway bridge we enjoy a splendid view. Charming lies the little city: factories and stores far beneath on the low, green banks, somewhat like the "uiterwaarden" of our rivers, and above on the so-called "bluffs" (cliffs or steeps one hundred feet high, which rise like natural dikes a short distance from the river channel), the "residences" or more respectable houses are scattered in charming disorder. Between the towns descends the majestic Mississippi, deep and broad with a stream as clear as crystal, which assumes a sallow, yellow color farther south, when the river, broader and more sluggish, flows through the swamps of Louisiana into the Gulf of Mexico.

Greetings to thee, King of Rivers,[6] American Nile, mighty artery of the nation's heart and life! Springing from the icy lakes of northern Minnesota and, with its tributary the Missouri, from the snow-capped Rocky Mountains, this river traverses the entire continent, bringing fertility and sustenance to all, bears trading fleets upon its waters, mirrors a series of growing cities: Minneapolis, St. Paul, Dubuque, and Davenport, and after conveying treasures to St. Louis and New Orleans empties into the bosom of the Gulf of Mexico, opening to North America's fruitful prairies and valleys an outlet which will one day become the great trade route of the world!

6 "This time without the slightest boasting," the visitor remarks, "the Americans may use their dearly beloved expression, 'the biggest in the world'."

Beyond Burlington we come into the domain of Iowa, the "settler" State, but recently organized and just developing. On 55,045 square miles, an area equivalent to that of England, one can count but 1,191,720 souls. About 1,900,000 acres, nearly all naturally fertile soil, have passed into the hands of railway corporations either as United States public lands or as "land grants". From both sources the farmer who wishes to cultivate the new soil may easily and cheaply obtain capital land for his fields. Railroads will gladly sell land for ready cash, even at low prices, and the State has established exceedingly favorable prices, an evidence of its wise care. In order to prevent the purchase of land for mere purposes of speculation, it has been stipulated that the land shall come only into the hands of persons who intend to bring it under cultivation. In accordance with the legal requirements of the so-called "preëmption rights" and the "Homestead Bill", an adult citizen of the State or a foreigner who has declared his intention to become naturalized can, by beginning the cultivation thirty days after application at the district land-office and by establishing his residence on the land within one year, acquire full title to 60 hectares [160 acres] at from $1.25 to $2.50 per acre payable in instalments if he so chooses.

"Iowa" is an Indian word and means "the beautiful land". It is reported that once upon a time when a number of Indians from the East beheld the green prairies across the Mississippi, they cried out in rapture: "Iowa! Iowa!" and that the name originated in this way. This much is certain: the Indians who formerly inhabited this region were called Iowas. As late as 1840, under their chief Mahaska or "White Hawk" and his squaw Rant-Che-Wai-Me —"Flying White Pigeon"— they formed a fairly formidable tribe. But they were attacked and conquered by other tribes, the Sacs and Foxes, under the renowned Blackhawk.

The black hawk appeared too strong for the white hawk. Now the greatness and glory of the famous Blackhawk (whom many inhabitants still remember) have also passed away, and the Indians who still remain in Iowa, mostly Sacs and Foxes, are to be found only upon the extreme western border near the Sioux River.[7]

The present State of Iowa . . . . consists almost entirely (nearly three-fourths of it is prairie) of hilly, gently undulating land, which as a whole varies little in altitude: from 600 to 1400 feet above sea-level. Even the valleys of rivers (which are fairly near their sources here) are high and therefore exceedingly fruitful. Upon the eastern and western borders of the State one sees the cliffs or so-called "bluffs", but rocks or mountains nowhere — nothing but the gently rounded curves of sloping and undulating earth. And trees, however luxuriantly they grow where they are attended to, are found in a state of nature only upon the river banks: ash and linden, beech and poplar, hickory and maple. The soil contains minerals: veins of lead and gypsum, and very extensive coal-beds near the rivers.[8]

But the real, the principal riches of the State is to be found in the fruitfulness of its soil. This comprises a capital valuation which it is still absolutely impossible to determine: the State only awaits the fructifying efforts of men to exploit her fertile soil and will reimburse all labor a thousand-fold. Wheat, oats, flax, vegetables, fruit — everything flourishes luxuriantly and abundantly upon the willing soil, while natural pastures are exceptionally fitted for stock-raising. The long "blue-joint" or prairie grass

[7] This statement is incorrect.

[8] The writer's foot-note reads as follows: "The Iowa coal, 'bituminous coal', possesses exceptional quality. Setting the combustible part of the coal at 100%, analysis shows: Silesia 80, Bohemia 81, Wigan (England) 87, and Iowa 90% of bitumen and carbonium. Only the famous anthracite coal of Pennsylvania stands higher in the scale, namely 96%."

grows almost as thick as sown grass, and wild grass — one speaks here of "wild" and "tame" grass — is even more nutritious.

But *the* real fruit of the soil: the land's blessing is "corn" or maize. I do not know what Iowa's coat-of-arms *is*, but it *should* be a well-filled ear of corn. What the pomegranate or bread-tree is to some countries, that and much more is the maize plant to Iowa: at once the staple product for trade and daily bread for the farmer and his family, food for human beings and for animals. No plant is more willing nor more prolific, no plant gives less trouble nor more reward. Indeed, the so-called "sod corn", the first corn planted and raised without toil upon the natural prairie sod, yields an average of from ten to fifteen bushels per acre, and later when the ground is carefully cultivated yields from forty to one hundred bushels. And it is well to think of something other than what we in Holland know by the name of "Turkish wheat", a good-for-nothing, weak, dwarfish species as compared with what people have here. Such robust stalks, heavy ears, beautiful kernels![9] For the settler himself corn produces the most healthful and palatable meal, which can be prepared in every kind of way; and that corn makes excellent feed for horses and mules, hogs and cattle, chickens and geese, even the non-expert can see by a single glance at the greedy way in which they eat it, and how well they fare on it. Besides, in the matter of harvesting, preservation, and transportation, there is no better plant than corn. Once ripe, the ear need not, as in the case of other grains, be immediately picked and stored. On its robust stalks, with its close-packed kernels, soldered fast to the cob as it were, protected also

[9] "As I write this, I have on the table near me an ear of maize, 29 centimeters long, entirely covered by nine closely-packed rows of kernels, each counting from 56 to 60, almost 500 large kernels on a single ear. And yet this ear is not considered one of the largest."

by a thick husk, the heavy ear defies all the inclemencies of wind and weather, rain and storm.

That this is a settler's country and farmer's region we can tell while riding on the train. For the most part it consists still of extensive, barren prairies, waiting for the hand of man, and here and there, more or less thinly scattered, small hamlets and farms. But the towns and groups of buildings which we see are characterized by an appearance of prosperity, such as is to be expected in a land of such fertility, in a State which enjoys the rare privilege of having no debt but a surplus in its treasury. Furthermore, all the towns or little cities resemble one another. When we stop at a very primitive station constructed of logs, we generally see a somewhat scattered group of neat, frame houses, among them a few, small, often pretty, churches with sharp-pointed steeples, and on some conspicuous site, commanding a view of the vicinity, a larger brick building, usually crowned with a tower or cupola, the "School" or "College" of the locality. The person who seeks variety or diversity of scenery must not go to America, least of all to the prairies of the West.

After a couple of hours of travel by rail we arrive at Ottumwa, where we have to change cars to the Des Moines Valley R. R. The reader may observe, at least if he is not a stranger to stock-exchange reports — and who in The Netherlands is?[10] — that we are gradually coming into the territory of those railroads whose names, formerly unheard and still unpronounceable to many, some years ago acquired a sad renown in Holland's money-market. Oh, if people had only had a little more knowledge of geography before investing their means so recklessly with those corporations! They would then have perceived how absolute-

[10] Market quotations of American stocks are to-day a source of great concern and excitement to thousands of people in The Netherlands — from the humble subject of average income to Her Majesty, Queen Wilhelmina.

ly impossible it was for capital expended on such roads (however honest the undertaking in itself might be) . . . . to yield interest at from 10 to 12, perhaps 15, per cent, depending on the expense rate.[11] Now one may console himself — if one is generous enough to find a consolation in it — that the money expended in the construction of those railroads will some day yield its dividends and profits, though not to the original money-lenders! The land, the property of the corporations, has an inherent, substantial value, which will remain imaginary only so long as man's reclaiming hand is absent. What this hand can accomplish here, we shall soon be taught to see.

It was four o'clock in the afternoon when the "conductor" informed us that we were in Pella.[12] Here Dutch emigrants thirty years ago found a resting-place which they likened to the place of refuge of the first Christians during the Jewish war. The name is undoubtedly much more significant than the names of countless towns and cities in America: they scarcely represent any idea at all and appear to owe their existence only to some trifling incident or mere accident. In general the Indian names are a good deal more beautiful and poetical than those of European origin. A certain natural poetry the natives seem not to have lacked, a result perhaps of their nature-life on the boundless prairies.

However significant the name "Pella" might sound, for the moment at least the weather could remind us little of the Syrian Pella. A cold wind and heavy fall of snow

11 "I do not know at what high figure the eight percent Des Moines Valley was originally quoted in the markets of The Netherlands. At present I believe the capital valuation of the bonds amounts to just double the interest promised."

12 Pella has been the center of a settlement of Hollanders since the year 1847, when Rev. Henry P. Scholte and a band of several hundred emigrants founded homes upon America's western frontier. It is estimated that about twenty thousand Hollanders, by birth and descent, live within a radius of fifteen or twenty miles of Pella.

greeted us as we stepped out. But there was more to welcome us: an English minister, Thompson (the Dutch minister is away for a few days), and a few Dutch elders. They conduct us to an omnibus which carries us a considerable distance before we arrive in the little city. There we see ourselves taken to our hostess, a certain widow, Mrs. van Asch, who had asked to be allowed to entertain us since Rev. Winter was away from home.

And her hospitality — yes, it might well be called *Eastern,* unless one prefers to give it the name *Western* hospitality, something to which I feel very partial after my American experiences. This widow also keeps a snug "prophet's chamber" in readiness in her small but neat Dutch dwelling, and that she had more to give than "a handful of meal and a little oil" was soon to appear at dinner time. Up from a secret cellar-hatch in the floor of our dining-room, at the wink of our hostess to a handy, alert child of seventeen, an orphan whom she had affectionately adopted, all sorts of fine dainties arose. Into all the secrets of the American as well as the Dutch art of cooking the lady of the house appears completely initiated. According to the testimony of my wife she deserves the doctor's degree in both branches. Moreover, our dinner is spiced with very entertaining conversation with the Reverend gentleman who dined with us in our honor. He is a pleasant, entertaining man, brother of the minister at Peekskill in New York State, with whom we had already become acquainted to our great pleasure, and possesses, besides other virtues, what is a rare accomplishment for an American: the ability to speak pure Dutch fluently. Having associated much with Hollanders, he wanted to learn their language, and he has so far mastered it that he preaches in Dutch sometimes.

In the evening he takes me to the Dutch church, a spacious but very plain brick building, with a tower in front,

which still needs a steeple, but its interior is suitably arranged and properly heated. This awakens a sense of pleasure, for it is rough weather outside, as sometimes happens here. A keen, piercing wind drives the cutting snow into one's face, and plays freely around the building which stands by itself near the wide street, with broad open spaces on both sides. But within there is nothing to remind one of winter. Despite the unkind weather the church is "touchingly full", as I wrote in my diary. It did my heart good to speak to that assembly.

The next day it was biting cold. The thermometer registered just below zero (Fahrenheit) in the morning; and although the wind died down and the sun shone, icicles glistened and tiny crystals of ice sparkled in the sunlight, warning one not to challenge the outer air unarmed. We determine under such circumstances to receive and to pay some calls — among the latter to the aged Mrs. Bousquet, whom we had the pleasure to meet once before in Rotterdam — and to get a glimpse of the neighborhood in order to know the little city somewhat more intimately.

It has a quiet but cheerful and prosperous appearance. Around the large square and on the principal streets good, brick buildings are gradually supplanting the wooden ones. Among the most respectable belong, as in all cities of the West, the "stores" or shops; for these cities are the market-towns where the farmers of the surrounding country are accustomed to come to supply themselves with necessaries. The shops are, therefore, also stores, like the East Indian "tokos" where everything is to be obtained: from large threshing and seeding machines to ribbons and pins.

Our shopping has its dangerous side. We can't look at anything without having it offered and forced upon us — for nothing! In one shop the "store-keeper" says: "You shouldn't run about in your hat in this cold; here is a warm,

woolen cap.'' Scarcely have I reached home when another appears with a hat-box under his arm, and produces therefrom a motley-looking cap. I tell him that his fellow-tradesman has just given me a winter-cap. ''No,'' answers he, ''that one isn't warm enough, that *won't do* in this awful cold. Take my cap too!'' I had just seen this man's advertisement in *Pella's Weekblad* wherein one could read in the Dutch language (to which people are accustomed here): ''To tailors and shoemakers we sell at wholesale price.'' I said to him: ''In the following issue I shall no doubt read your advertisement: Ministers we supply free of charge.''

That our language, even in the Dutch colonies, must gradually lose some of its purity speaks for itself. A number of English words have thus been wholly incorporated into daily speech so that people would have difficulty understanding the equivalent Dutch word. ''Stove'' for *kachel,* ''lot'' for *perceel,* ''bill'' for *rekening,* are like Dutch-coined words and are in every respect like current legal tender, and the general practice of giving English verbs a Dutch ending has become quite legitimate, as ''dinneren'', ''supperen'', ''fixen'', ''enteren'', ''boarden''. More than once have I heard people say: ''Ik *groei* koren'' [from the English: I grow corn]. ''Mijn buurman *groeit* tarwe'' [My neighbor grows wheat]. A woman said to me: ''Ik heb acht kinderen *gerezen''* [I have raised eight children]. And not to multiply examples, I shall confine myself to three words borrowed from the vocabulary of Dutch ministers. I read the observation of one about a ''nieuwsgierig'' book [for ''curious'' he meant ''merkwaardig'']. Another writes to me of a usurer in his city and calls that man a ''dierbaar'' evil [for ''dear'' he meant ''duur'']. A third admonished his hearers — perhaps not entirely undeserved — against the desires of ''de flesch'' [''the bottle'', though he meant ''het vleesch'', the flesh]. Let me hope that I

myself was not guilty of similar heresies against the English language that evening when I appeared before a very large audience in Rev. Thompson's church.[13]

The following day, Thursday, the cold had decreased a little. The air was still and clear, so that we gladly accepted the invitation of a farmer, Mr. Muntingh, to inspect his farm. He came for us with his wagon. It was a pleasant ride of nearly an hour, through a broad, rolling country, which reminds one more or less of the beautiful stretches of Gelderland; but the fruitfulness of the rich lowlands of the Betuwe [of Holland] is characteristic of knolls here such as those of the Veluwe [a desert district of Holland], while the settlement is old enough to have wood and timber, something not usually to be found upon the prairies. Here and there in the distance appear farms with their barns and other buildings. In general they are not large, about 50 or 60 acres.

The superficial observer might think that the cheapness of the soil — although it has now risen considerably in value and price on account of cultivation — would cause large plantations to come into existence. But hindering this is the difficulty of very high wages: a reason why farmers cultivate their own lands with the aid of their sons or a single hired man, and indeed the soil does not become the worse for it. The master's own *hand* accomplishes still more than "the master's *eye*".

And even though the men who have settled here thus far have not yet become capitalists, with industry, thrift, and perseverance nearly all have achieved a fairly large measure of prosperity, and their own appearance as well as that of their houses supports this contention. Even their live stock — cattle and hogs — show that they fully enjoy the earth's fruits and that they are fed not only with hay and

[13] The Dutch churches of Pella belong partly to the Dutch Reformed Church and partly to the Christian Reformed Church. For about fifty years one of them has had services in the English language.

slop but with excellent, life-giving Indian corn of which gigantic ears, solidly filled, are shovelled in great heaps before them. The farm of Mr. Muntingh is surely one of the finest. From a small balcony on which the windows of an upper room open we obtain a long-distance view of the surrounding country with its gently rolling surface which at this time charms the eye, the fields and acres being cleared of every ornament. It is too cold outdoors, however, to stand still for any length of time — biting enough to teach me to appreciate the merits of my new motley-colored cap with ear-flaps, and to value doubly the taste of a good cup of Dutch coffee.

To find the Dutch element here once more, not only in a coffee-cup of the fatherland but also in the whole life and being of a people, is a pleasure to us. And fortunately they are still genuine Hollanders, more so indeed than many in the fatherland, even though the language has been somewhat forgotten. Though the form has changed, the good, substantial, pithy kernel has survived.

It is just as difficult for the Netherlander to lose his traits as it is for the Moor or camelopard. In this way especially he shows his extreme tenaciousness. He confirms also the old Latin proverb: "Coelum, non animum mutant, qui trans mare currunt".[14] But he exemplifies just as much that other saying: "Omne bono viro solum patria".[15] Here he feels entirely at home, and although he likes to hear someone speak of his fatherland, he would not like to live there again. Indeed, to their domicile in this big country the people have much to thank: a substantialness, a feeling of power, a development, which society and life spontaneously produces here. The men have acquired a ripeness of experience, broadness of view, exactness of

[14] Those who cross the seas change their climate, not their nature.

[15] To the good man every country is a fatherland.

judgment, and practical readiness; and the women all possess something of the *lady,* a characteristic of every American woman no less in country districts than in the towns.

With regard to the Hollanders in America I have observed in general that the people on farms have far surpassed the immigrants in the large cities in progress and in prosperity. A ready explanation of this is to be found in our peculiar, plodding nature. In the cities, with their somewhat slower gait the Hollanders can scarcely compete with the extremely resourceful and alert Americans. There they fall into more or less straitened circumstances, progress more slowly, and are usually of less account. In the farming communities (where they form a small society by themselves, are left more to themselves, and support and aid one another), it is different. Besides, what people in Europe do not altogether unjustly call rusticity (in French a boor is called a *rustre*), as opposed to urban polish and good-breeding, is found least of all among the farmers here.

The last statement applies both to Holland in Michigan[16] and to Pella. In other respects the two colonies differ considerably. Their soil and climate, and therefore their entire life is different. At Holland sandy soil, timber, and water; hence more shipping and trade; here a fertile soil with flourishing agriculture. Even the ruling passion of the people is somewhat different, as I was repeatedly assured by persons well acquainted with both settlements, a fact which is partly explained by the different personalities of the founders: Scholte differed much from van Raalte. In Pella there is more show of outward prosperity: in Michigan there is more zeal for church and school. In the latter respect, however, there is not much cause for complaint at Pella, so we are told by the Rev. R. Winter who,

[16] Holland and Grand Rapids, Michigan, have attracted larger numbers of Dutch emigrants than Iowa.

having returned home, dines with us at the house of our hostess, out of whose cellar once more all sorts of excellent things appear upon the table. We are sorry that the time to leave approaches. But the appointments which I have made permit no postponement. My departure must remain irrevocably fixed for the following day.

Last evening a unique surprise awaited us. A singing and music society of Pella came to serenade us at candlelight, a token of honor which we had not figured on, least of all here in the far West.

In every way the warmest cordiality and friendliness was shown us on the last morning. Many persons came to visit us and gave us "souvenirs" to take along. Some also came to ask us to inspect a couple of work-shops or factories. I refused because I felt somewhat tired and had letters to write. How sorry I was afterwards when I heard that the invitation was really an innocent stratagem to get us into a photographer's studio to have our picture taken. I should so much have liked to own a photograph made in Pella!

Orange City, Ia. November 23.

For a couple of days now we have, really for the first time, been introduced to the pioneer's life. Here we are in the midst of an entirely new country, new even in this New World, in a colony established only two years. We are privileged to see a settlement in a state of origin and first growth. As a matter of fact this colony is sprung from Pella.[17] These settlements in America remind one of the famous baobab tree whose full-grown branches bend down, become rooted in the earth and grow as new trees around the old mother-trunk. The wide-awake spirit of enterprise shown by the reclaiming farmer is handed on from father

[17] The Sioux County colony, established in 1870, to-day consists of about 15,000 Hollanders.

to son; and when all the land in one neighborhood has been bought up and put under cultivation, the atmosphere becomes too close for a new generation which then goes to seek a virgin soil elsewhere and to conquer a new country with spade and plow.

Such is the story here. A wide-awake, enterprising man, H. Hospers, became the father of this colony. He united with Rev. S. Bolks, a worthy, old minister, one of the first settlers,[18] who was to aid him with his ripe experience and spiritual influence, and — the youthful settlement shot up from the fertile prairie soil, luxuriant and powerful, to become what we now see it is.

It is no wonder that Mr. Hospers[19] was "angstig" (anxious) — as it is called in American-Dutch — to have us visit his new city; and it will excite even less surprise when I say that we had no thought of refusing but eagerly seized the rare opportunity to see a community in the "Far West" in its childhood. But I must return to the regular course of my narrative.

Friday we left Pella at three o'clock in the afternoon. After many a warm and vigorous hand-shake with trusty friends who later waved us a parting good-bye, we steam away past the pretty "College" and the parsonage of our friend Thompson, and see the little city disappear behind us. We leave it with regret, but yet enriched with a good and happy remembrance, and with the pleasant consciousness of having made and left friends there too, who shall forget us as little as we them.

One of them, to our momentary pleasure, we need not leave behind. Mr. J. P. Bousquet is to accompany us to Orange City, a truly delightful companion on the long journey. We pass through the Des Moines Valley, usually

[18] Rev. Seine Bolks was one of the pioneer settlers of Overysel, Michigan, in 1849, and was called to preach at Orange City in 1872.

[19] See footnote 1.

at a considerable distance from the river. In the afternoon we arrive in the city by that name, the State Capital, a growing little place of nearly 13,000 inhabitants, which is bent upon being very much more respectable later on. Now a capitol or government building is being built for $3,000,000. From there the journey is continued by way of Chicago, a small place which has only the *name* in common with the wonder-city of Illinois, and we reach Fort Dodge at nine o'clock in the evening, where we spend the night.

The journey itself offers little worth seeing: a constant succession of undulating fields, "rolling grounds". At first, along the road, we see prairie fires, especially noticeable in the dark, sometimes three or four on the horizon at once. These fires are started in order to clear away the prairie-grass or layer of sod, or to consume the roots and stalks of dead plants, and to fertilize the soil with ashes. I fancy that anyone who has read a brilliantly poetical account of a prairie fire and seen it likened to "a rolling sea of fire, miles in extent, sweeping forward on its destructive course, driving before it whole herds of wild buffaloes, deer, and antelopes, dashing along helter-skelter in desperate terror," shall feel disappointed when he gets to see nothing more than low-lying flames, advancing slowly over the surface of a field bounded by furrows in order to prevent the fire from spreading too far.

The sight does not impress one much, at least near by, and I am not surprised that a certain traveler avenged the disenchantment of his high-strained expectations with the disdainful exclamation: "A spectacle to be hissed at!" Of animals driven on in terror, not a sign here! Indeed buffaloes and deer have long since disappeared, and almost the only living inhabitants of these fields are the so-called prairie-dogs, a sort of large marmot, called dogs from their peculiar bark,— pretty, sociable little creatures which live

together in small mounds, and upon the approach of danger creep into their subterranean passages; or the prairie-chickens, which know how to get away fast enough when the fire approaches. All this does not gainsay the fact that on a still night, observed from a distance, these prairie fires, with ruddy glow reflected from the dark sky, present a unique picture, and lend to the broad stretches of undulating prairie a sort of grand wildness.

Otherwise, as I said, little variation. Now and then a boy throws on our laps a slip of paper with some alluring advertisement or other, of "Capital New Books" or "Attractive New Books", or of "the delicious and only genuine Crystal Maple", or "Caramels, nutritious and healthful, may now be obtained of the News-agent on this train", with the remark: "You will like them". Or a man maimed in the war (it is the first begging that I have met with on this side of the Ocean) brings us a ballad: "The Soldier's Lamentation", a sad but not entirely poetical elegy.

We for our part gave way to no lamentation when we finally reached our destination. Just as little did we shout for joy when we saw the hotel to which we were taken after our arrival at Fort Dodge. It is a large but hollow and unsociable building, which very much resembles an enormous shed. But we have little right to expect more in a small place of 2000 inhabitants, in the midst of a world still half-peopled; and the best we can do is not to stay up long in the bare, ill-lighted bed-room, the more so since we are to be called the next morning terribly early, at a quarter to four o'clock, to be ready in time to continue the journey.

Luckily, the next morning — really long *before* it was morning — we did not miss roll-call. By candlelight we hastily made our toilet for the journey, no less hastily we partook of a "wheat-cake" with tea in the "bar-room",

and then wrapped up as warmly as possible. With our friend Bousquet and Mr. Hospers (who had arrived the previous evening from the other direction to conduct us to his colony) we took seats in the omnibus, a large vehicle with canvas, flapping in the morning wind, fastened from the top along the sides. It was absolutely dark in the little town, and no one will be surprised if I retain nothing but a dim recollection of Fort Dodge.

It was a pretty long ride to the station of the St. Paul and Sioux City Railroad. If there has been a prodigal expenditure of money on this railway, it surely was not spent on the station constructed of rough timber, as plain and primitive a structure as can be imagined, whose great merit consists in being in absolute harmony with the surrounding country. We have still a while to tarry; but at last the shrieking whistle is heard, and — there he comes, appearing out of the darkness of night, "the fierce salamander, who vomits fire from his belly, and rattles over the earth". A minute's stop — and we are lifted up, enter our "car", throw aside mantle and overcoat with our small amount of baggage, and warm our benumbed fingers near a glowing stove.

Verily, one must have visited America, especially such wild, lonely regions, to realize fully the value of the railroad, to feel the full significance of the invention of our nineteenth century, and to reverence it as the symbol of progress and civilization. Even the prosperous but quiet town or little city of some corner of Holland, when at last it sees the approach of the iron road which brings connections with the big world outside and pulls it out of its lonely isolation, can feel rejuvenated and renewed. But in order to see and feel entirely from one's own experience what the railroad is, brings, accomplishes, one must be suddenly transplanted (like ourselves) at a cold hour of

early morning from a crude log house, lonely in the midst of a dark wilderness, to a swift-rushing railway chamber, spacious and sociable, with its easy, well-cushioned chairs, near a stove with a cheerful, rosy glow. As by a stroke of magic one seems transferred from the inhospitable wilderness to the world of human beings, to civilized society.[20]

I understand better than ever why Americans are enthusiastic over railroads. The old Romans, it is well said, conquered and subdued barbarians more perhaps by means of roads than with armies. Americans, too, are conquering with railroads. The railroad train is the battering-ram, paving the way for civilization, which shall people and till the wilderness and transform the prairies which have lain fallow for centuries into the fields for which God has created them.

Here the whole country is still practically wild, as we see when day begins to dawn. Now and then we stop for a moment and see a station of logs or boards, more primitive even than the one we left this morning, or a lone farm, and — once more we are speeding over interminable prairies with not a sign of habitation. Always, invariably the same view, with a single exception, as when we steam past a large body of water, Storm Lake, or when at noon we arrive at the village of Cherokee, on the banks of the Little Sioux River, a prosperous town which had hardly four log houses two years ago — now, opposite a fine church, stands a large "College" building with broad wings and neat tower. Most of the houses which line the road are extremely prim-

[20] Mr. Stuart subjoined this footnote: "In those American railway coaches one sees all sorts of things which one should not expect to find or look for in the European cars. Among them we discover Bibles and 'Hymnbooks' on book-shelves, and against one of the walls a few saws and axes. Upon asking what purpose the latter serve, we are informed that they may be of use to the passengers, if an accident should happen and the coach should be overturned, to chop or saw a way out through the woodwork. The axes can also be used in case of an attack by Indians. All sorts of excellent precautions, but not entirely tranquillizing to any one who has at all a lively imagination!"

itive. Above a front of unplaned boards, nailed against the sides of rough logs, a board with large letters and sometimes with a showy superscription announces the existence of a hotel or a shop such as certainly no foreigner would expect to find there.

At three o'clock in the afternoon we arrive at Le Mars station, where we must get off. We find there, besides a couple of carriages which are ready to convey us and our baggage eighteen miles farther to Orange City, a few gentlemen of whose probable coming Mr. Hospers had told me. They formed a deputation from Sioux City, and came in the name of the Mayor and Council of that city to press me with an invitation to see an Indian camp situated in their vicinity. How I should like to have accepted that invitation![21] Alas, that I had to refuse! I perceived that such a digression would require at least three full days, and I had no time to give away. To lose such a unique opportunity, however, grieved me terribly. I know that I shall always regret my action. If I shall ever again be allowed to undertake such a distant journey, I shall not tie myself down so closely to definite engagements.

But the time came for us to continue our journey to Orange City, if we were to arrive there before dark. In Mr. Hospers' "buggy", open in front, drawn by a team of spirited horses, we started on our way. *Road* is — to be

21 "That their invitation was serious," wrote Mr. Stuart, "I gathered from a newspaper in which I found a short article under the headline: 'An Eminent Foreigner's Visit to Our County', which contained the following: 'We are informed that a well-known clergyman from Holland with his lady is expected for a few days in the new Dutch settlement of Orange City. We suggest that he should be urgently invited, whilst staying in the neighborhood, to visit our City, as a guest whom we would be honored to entertain.' Never have I felt so strongly as in America how the importance of a thing — or of a person — can change and increase by exporting alone. The farther I got from home, the bigger I seemed to *grow*. Fortunate is the person who has a certain amount of self-consciousness and knows his own worth or lack of worth, independently of external circumstances."

honest — mere euphemism here, a figurative expression, a sort of poetic license; as for a highway, there was none or just a trail. The boundless prairie lay spread out before us, and driver and horses knew their course. It was a ride not without its peculiar enjoyment. True: it was bitterly cold in the wind which swept unobstructed from the North. I could only imagine how very different things must be in summer when the thick, soft carpet of dark green grass appears dotted with flowers of all colors; but even so, despite the barrenness, wildness, and monotony of the scene, yea by reason of these, there is something grand and awe-inspiring in the landscape.

Nothing impedes or interrupts the view, whithersoever one looks. No hill or rock, not even a house or tree, not a single sharp line. Nothing, absolutely nothing but the vast, broad prairie! And yet it is very different from the single horizontal line which describes our low, level meadows in Holland:[22] an endless succession of irregular, undulating slopes which seem to extend one's circle of vision indefinitely. There is an inexpressible charm, something solemn, mysterious in the nature of the landscape which speaks to the imagination and even to the heart. It awakens a consciousness such as that aroused by a view of the ocean; yes, in a certain sense it is even stronger here. There, in boundless space is the unending monotony of restless water; here, over the vast but motionless waves, petrified as it were, reigns a deep, solemn stillness, emblematic of peace and immortality, but also of fresh, free, invincible power.

Indeed, there is poetry in the picture, and I realize now why the Arab waxes enthusiastic over the desert; I understand now why the poetical soul of such a person as Miss

22 "A certain painter once sketched a Dutch landscape with a single stroke of the brush: one straight, horizontal line. Fortunately we in our country have colors and tints for lines. The first painters of nature and landscapes after the days of the Renaissance were Hollanders."

Currer Bell loves the monotonous heath of North-England more than the most picturesque landscape; I can almost explain what people here say of a settler of the prairies, who complained of being stifled when he caught sight in the distance of smoke rising from the chimney of a "neighbor" who had located twenty miles away!

However, we do not yet feel like that. Our love for the wilderness had not been put to a severe or lengthy test, and yet, I shall frankly confess it, despite all our poetical contemplations, for which it was indeed really a bit too cold, for the moment we had enough of the wilderness. Man is by nature, after all, a social animal. With unfeigned pleasure we saw, towards the end of our long ride (for it had gradually become quite dark) the gleam of a little lamp here and there which told of human life, and at last our neighing horses come to a stand-still; a door opens, and — we are given a most friendly welcome into a sociable household.

Such a journey through the cold night wind of the prairies is a good way to make one feel (as one does not likely think of it under other circumstances) what a blessing it is to find a *roof* and the pleasure of a hearty, hospitable reception. And here it is a warm reception in every way. Near the companionable, singing tea-kettle, surrounded by the family of our host, in the midst of which the friendly, worthy dominee Bolks, no less sociable, sits smoking his fatherland's pipe, we at once feel ourselves at home; and afterward when the young people gather about the organ and sing us a few four-part songs, it is hard for us to realize that we are in the heart of a newly-occupied prairie country.

We were all the more surprised on awaking and looking around the next morning. It was Sunday, and a Sunday which I shall not very easily forget. What a quiet, almost

holy Sabbath stillness broods over that scene! A fresh, but not cold, morning breeze greets us and the sun casts its friendly rays over that boundless space. Orange City is situated upon somewhat rising ground, and the broad, open landscape extends in all directions. "The world looks big when you approach the Missouri", I had read somewhere, and it is true. Such vast space, and such stillness, seriousness, and peace! How well does the fresh, youthful, simple life of the little colony harmonize with quiet, pure, virgin Nature! About us the little settlers' town with its widely-scattered wooden houses, and beyond, here and there, at a great distance, a little blue cloud of smoke rising from the green field of this or that farm hidden in the folds of the undulating prairie.

But see, gradually there comes a stir! Miles away we see them approaching from all directions, this morning's people on their way to church: here a light buggy or an open wagon, yonder a slow-moving ox cart, or a horseman, also a single amazon, a stout, young farmer's daughter who comes galloping over the fields, a delightful sight to see. But whether they come fast or slow, they arrive in time: those who must travel long distances are seldom late.

We too betake ourselves to the large "public square", as the place is proudly called, where the settlers already imagine they see noble buildings but which is now nothing more than a sketch, an open plot of land surrounded by a few small dwellings and four rows of trees which can stand in *our* shadows. But just now we see a big stir there. Horses and oxen, unhitched, are tied to posts or allowed to graze, and men and women form groups here and there in front of blacksmith shop and church.

Of that church entertain no lofty expectation! It is indeed the most unsightly structure in which I have ever preached. Imagine a small rectangular building of boards,

perhaps ten metres long and five metres wide, with a stove in the center and benches around it. That is the school.—Perpendicular to this school-room at one end, like the upper part of the capital letter T, there is a shed with a few rough, unplaned boards on supports to serve as pews, and against the back wall opposite the entrance stand a chair and table for the minister. This shed and the school-room together form the church. During the week on school-days, the partition between the two rooms is closed, but on Sunday for church services boards are removed from the upper part and the church is then ready to receive an audience.

To be sure this is something quite different from a stately gothic cathedral or the beautiful marble church edifices of New York, but it appeals no less to the emotions; yes, I even dare assert, it is no less picturesque to the eye. It reminds me of Schwartz's picture of the barn where the Pilgrim Fathers in America first worshipped God. Would that my friend Bosboom, who understands so well the charm of light and brown and knows how to put feeling and even poetry into a stable or a landscape, would that he were here for a short quarter of an hour to catch the ray of light which the pale winter's sun causes to play through the little open side-window against the dark wainscot and upon so many quiet and pious upturned faces; or would that Rochussen could reproduce that audience with a few of his ingenious, characteristic figures: men with quiet power and strength written in their bearing and upon their faces, and women some of whom were nursing children, with hands clasped in prayer which was none the less real although they embraced that which was to them most precious on earth. I have seldom if ever been more inspired by an audience than the one in the midst of which I was permitted to stand that morning, and if I returned any of the inspiration which those hearers unconsciously gave to

me, that Sunday morning on the prairies was not entirely lost for eternity.

In the afternoon I preached a second time. They did not need to ask me twice. I then served as the messenger of good tidings. A respectable donation had just been made by the Synod to permit them to begin the construction of a church edifice. For its part the congregation will not be behindhand in offering its contributions, and it will probably not be long before the people may rejoice in the possession of their own church.

Another sociable evening we spend in interesting conversation, mostly of course on the subject of colonies and colonization, in the house of the minister, of whose wife we take our leave. He himself intends to get up tomorrow to take us to the station.

St. Paul, Minnesota, Nov. 25.

Early Monday morning we left Orange City with a peculiar feeling of melancholy. Not only had it done us good to be there, but it was also the westernmost point which we reached, just half-way across the continent, in northwestern Iowa, near the Dakota border, the extreme frontier as it were of civilized life. Our course was now to be northward to see something of that Minnesota whose name we had so frequently heard in the fatherland.

It was early Monday morning when we had to get ready. At half-past five we sat at breakfast and one hour later we were on the wagon which was to convey us, under the guidance of Messrs. Hospers and Bolks, with our friend Bousquet, to the station of the St. Paul & Sioux City Railroad, this time a different station, nearer than the one at which we arrived Saturday. If Le Mars is eighteen miles distant, East Orange[23] is not more than a forty-five minute

[23] The town of East Orange is now Alton, about three miles east of Orange City, the seat of justice of Sioux County.

ride from Orange City. There we bade good-bye to our host, departing at 7:25 on the train to the Northeast. We were soon to be reminded of him, for the next station was named after him: Hospers. But really we shall think of him and his colony often enough without such reminders.

THE CAPTURE OF GENERAL MARMADUKE BY JAMES DUNLAVY AN IOWA PRIVATE CAVALRYMAN

Fame usually comes to men in an instant of time. The man of obscure name to-day may be receiving the plaudits of the public tomorrow. Lord Byron, after publishing his critique entitled *English Bards and Scotch Reviewers,* awoke one morning, as he himself has stated, and found himself famous. Robert Burns, one of the world's greatest poets and song writers, left his plow in the field near his humble Ayrshire home, and under the spur of necessity published a small volume of poems. He immediately found himself courted and admired by the foremost literary and intellectual people of the Scottish capital. When a call for volunteers was issued during the Spanish-American War for men to sink the Merrimac in the channel of Santiago Bay, Lieutenant Richmond P. Hobson responded, and with seven men performed a deed of heroism rarely equalled in history. He literally leaped into fame on account of the successful performance of this daring enterprise. Instances of a similar character might be greatly multiplied.

In like manner, though in a lesser degree, enduring fame came to an Iowa private cavalryman during the closing months of the War of the Rebellion. This soldier was James Dunlavy, of Company D, Third Iowa Cavalry. A single act of bravery, but which clearly showed the heroic spirit of the man, was sufficient to place his name high upon the scroll of honorable achievement. It was an act which entitles him to lasting remembrance in the annals of Iowa, and which must ever be regarded with pleasure and pride by his descendants.

James Dunlavy was born in Decatur County, Indiana, on February 4, 1844. At the age of four years he came with his parents, Mr. and Mrs. Harvey Dunlavy, to Davis County, Iowa. Here he attended the common schools of the county, and grew into a vigorous young manhood. His father, Harvey Dunlavy, was a prominent and influential citizen. He was a lawyer, but he also devoted considerable time and attention to farming, and although not an office-seeker he was nevertheless called by the citizens of Davis County to various positions of trust and honor. He was twice elected to the lower house of the State legislature, and served during the regular and extra sessions of the Eighth and Ninth General Assemblies.[1] He reared a large family, members of which still reside in Davis County.

James Dunlavy, although under the age of eighteen years, proffered his services to his country when the Civil War broke out, first enlisting in Company F, Thirtieth Iowa Volunteer Infantry, but he was rejected by the mustering officer on September 23, 1862.[2] Nothing daunted by his rejection, however, he again offered his services, re-enlisting in Company D, Third Iowa Cavalry, on November 30, 1863. He was mustered into the service on January 15, 1864, and mustered out on August 9, 1865, at Atlanta, Georgia.[3] At the close of the war, he returned to his home in Davis County, and soon thereafter took up the study of medicine, graduating from the Keokuk Medical College in 1870, and for a period of thirty-two years he successfully practiced his profession at Stiles, in Davis County, where he was well and favorably known. On March 24, 1870, Mr. Dunlavy was united in marriage to Letitia C. Von Achen, and to them four children were born: C. A. Dunlavy, now residing in New York City; S. W. Dunlavy, M. D., of

[1] *Iowa Official Register,* 1911–1912, p. 83.

[2] *Roster of Iowa Soldiers,* Vol. III, p. 1510.

[3] *Roster of Iowa Soldiers,* Vol. IV, p. 489.

Cherryvale, Kansas; H. D. Dunlavy,[4] of Ottumwa, Iowa; and Mrs. M. A. Hedges, of Washunga, Oklahoma.[5] In 1892, Dr. Dunlavy removed from Stiles to Maramec, Oklahoma, where he now resides.

It was while serving as a private in Company D, Third Iowa Cavalry, that James Dunlavy performed a deed which entitled him to recognition as a brave and gallant soldier, and proved him equal to the demands of war as well as of peace. On the 25th day of October, 1864, single-handed and alone, while suffering from a severe wound in the right arm caused by a missile thrown off from a bursting shell, and while riding a horse which had been wounded by the same shell, Dunlavy captured and received the surrender of the Confederate Major General, John S. Marmaduke, at Osage, Kansas. This feat is unique in that it is probably the only instance in recorded history of the capture of a Major General by a private soldier on the field of battle.

The battle of Mine Creek, at Osage, Kansas, was fought on the 25th day of October, 1864. The firing began early in the day, and culminated about 8 o'clock a. m. in the defeat of the Confederates. The Union forces, comprising ten brigades of cavalry, were commanded by Colonels Benteen and Phillips. The shattered forces of the Confederate General, Sterling Price, were rapidly falling back, with the Federals in close and vigorous pursuit. General Marmaduke had been assigned the task of holding the Federal troops in check until Price's train could cross Mine Creek. Benteen was on his right, Phillips was on his left, and Mine Creek was in the rear. General Marmaduke's

[4] The writer hereof acknowledges his indebtedness to Mr. H. D. Dunlavy, of Ottumwa, for valuable information concerning the life of Dr. Dunlavy, and for much information from Dr. Dunlavy himself regarding the capture of General Marmaduke.

[5] *History of Davis County,* p. 670.

position therefore was anything but enviable. The columns of Benteen moved forward with precision and determination, and fell upon Marmaduke's troops with irresistible force, capturing his artillery and putting to rout his center and right.[6]

Upon the extreme right of the Third Iowa rode private James Dunlavy. Notwithstanding the fact that both himself and horse had been wounded, the young soldier, who had not yet attained his majority, refused to go to the rear, but on the contrary kept his place at the front and in the line of battle, thus displaying high courage and efficiency as a soldier. As Marmaduke's men broke before the terrific onslaught of Benteen's forces, Dunlavy's horse suddenly wheeled to the rear.

When he had succeeded in bringing his frightened and unruly horse to the front again, Dunlavy beheld to his surprise that his brigade was far in advance of him. Looking to the right across the level field he saw some troops who he supposed from their appearance were Federals, and he spurred his horse toward them. But another surprise awaited him, for he soon discovered that, although dressed in Federal uniforms, they were in fact some of Marmaduke's men in full retreat. He also observed upon the field an officer in Confederate uniform. This officer started toward Dunlavy, riding at a rapid gait, and shouting to him: "What do you mean by firing at your own men?" Whereupon, Dunlavy brought his gun to his shoulder and fired point blank at the Confederate officer, but owing to the great distance intervening and the wounded condition of his arm, the charge from his gun proved harmless and the life of the officer was saved.

Dunlavy then reined his horse to a trot, and the officer, who continued to advance rapidly, was soon at his side,

[6] *Roster of Iowa Soldiers,* Vol. IV, p. 435; and Crawford's *Kansas in the Sixties,* pp. 157–164.

evidently in the belief that Dunlavy was one of his own men. The young cavalryman, however, was master of the situation. He saw at once his opportunity and his duty. He immediately brought his carbine to his shoulder and demanded the officer's revolver, at which the officer appeared greatly surprised; but as he gazed into the clear, steady eyes and determined face of the young soldier, General Marmaduke realized that the youth meant business, and he replied, "I surrender; I thought I was with one of my own men". Thereupon he handed over his pistol.

Having displayed courage and coolness which would have done credit to a man of maturer years, Dunlavy next sought to deliver his prisoner to some one authorized to receive him. He therefore immediately started to the rear with the prisoner. A Federal officer who was in need of a horse asked Dunlavy for the horse of the prisoner, whereupon Dunlavy ordered his prisoner to dismount and deliver the horse to the Federal officer, which order General Marmaduke obeyed in the coolest possible manner and in the most approved military style. Both being now dismounted, Dunlavy again started for the rear with his prisoner on the double quick. They had not gone far, however, when the captive General stated to his captor that he had been up all night and was exceedingly weary and sleepy and asked to be allowed to slow down to a walk. This request was granted, but when he asked for a horse he was advised by Dunlavy that he could not have one. General Marmaduke then asked to be taken to General Pleasanton, stating that he was personally acquainted with that officer; and to this request Dunlavy replied that if the officer named could be found the prisoner should be permitted to see him. General Marmaduke remarked, "I will tell you who I am;" but at that moment a member of General Pleasanton's staff came up, and the prisoner introduced himself.

Again Dunlavy started to the rear with his distinguished prisoner, who asked him into the hands of what troops he had fallen. Upon being informed that he had been captured by a member of an Iowa regiment, he remarked that he was glad he was in the hands of Iowa troops instead of Kansas troops, apparently believing that he would fare better among the former than among the latter. They had gone but a short distance when they met General C. W. Blair, to whom Dunlavy delivered his prisoner. Thereupon General Blair procured a horse for General Marmaduke and, turning to Dunlavy, requested him to accompany them to the headquarters of General Curtis. Blair introduced Marmaduke to General Curtis, and immediately afterward presented James Dunlavy as the captor of the Confederate General. General Curtis gazed for a moment at the youthful hero, and then remarked that he and Dunlavy were from the same State, and that he was acquainted with the young man's father.

Having made the proper disposition of his prisoner, Dunlavy started in the direction of the field hospital for the purpose of having his wounded arm dressed, when a Federal officer rode up to him, grasped his hand and shook it warmly, and said: "My boy, you will hear of this day's work in years to come."

Thanking the officer for his kind words, he continued his journey to the hospital, where his wound was dressed, and he then set out for the front in company with a comrade. He had not traveled far, however, before his wounded arm began to bleed and cause him great pain, and he at length decided it would be best to return to Fort Scott. That night it rained, and Mr. Dunlavy in writing of his experience on this occasion, said: "My feelings can better be imagined than described. A boy away from home the first time, a stranger in a strange place, wet, wounded, dirty and homesick. But General Blair sent for me, and treated me

with great kindness. A load was thus removed from my heart, for which I shall always be grateful.'"[7]

As soon as his arm was well enough for duty, Dunlavy left Fort Scott, rejoined his regiment, and remained with it through all of its campaigns in Missouri, Tennessee, and Georgia, until finally mustered out, proving himself upon all occasions a brave, faithful, and dutiful soldier.

Among the most valued and cherished mementos now in the possession of Dr. James Dunlavy is a case containing two very handsome gold mounted Colt's navy pistols, presented to him by Major A. C. Van Duyn, upon behalf of the citizens of Fort Scott, Kansas, in recognition of his gallant conduct in the capture of General Marmaduke. This case of pistols was accompanied by a letter, of which the following is a copy:

Fort Scott, Kan. Decbr. 15th, 1864.

JAMES DUNLAVY,

Co. D. 3d Iowa Vet. Cavly —

Sir: I am delegated by the citizens of Fort Scott to present to you this case of pistols, as a testimonial of your distinguished services and bravery in the capture of Maj. General Marmaduke, at the battle of Osage, Kansas — Oct. 25th, 1864.

With just pride, they make this acknowledgment to a private soldier. They, after all, are the real heroes, in this costly and bloody struggle for national life.

Your patient, soldierly deportment, while in hospital, suffering from your wound, has not been unnoticed; and now as you are about to go again to the field, they bid you Godspeed, hoping that the blessings of heaven, and the honors of the Republic may be yours.

Truly your friend,

A. C. VAN DUYN.[8]

Inside the lid of this pistol case is a small plate, on which is engraved the following inscription:

[7] *Uncle Sam Medals of Honor.* This is a volume containing accounts of the medals awarded to Union soldiers in recognition of distinguished services.

[8] Original in the possession of Dr. Dunlavy.

FORT SCOTT, KANSAS
PRIVATE JAMES DUNLAVY
CO. D, 3RD IOWA CAV.
CAPTOR OF MAJ. GEN. MARMADUKE
OSAGE, OCT. 25TH, 1864.

Dr. Dunlavy also has a very fine album, and a handsome copy of the poetical works of Thomas Moore, presented to him at the same time by the ladies of Fort Scott, on account of his gallant conduct in capturing General Marmaduke.

Furthermore, the Board of Supervisors of Davis County, Dr. Dunlavy's former home, adopted and placed on their records the following resolution, a copy of which was sent to Dunlavy:

Bloomfield, Iowa, Jan. 5, 1865.

Whereas, it has come to the knowledge of the citizens of this County that private James Dunlavy, Co. D, 3rd Iowa Cavalry, did in the late battle of Mine Creek, Kansas, between the Federal and Rebel forces, after being severely wounded in the arm, by his own personal daring and courage, rush upon and compel the noted General Marmaduke (Rebel) to surrender to him as a prisoner of War,

Therefore, be it resolved, that we hereby tender to the said James Dunlavy the thanks of the citizens of this County for his brave, faithful and distinguished services.

Be it further resolved that the Clerk of the Board of Supervisors be directed to spread this proceeding upon the record of this Board and that he furnish the said James Dunlavy with a copy of same under seal.

I, William Law, Clerk of the Board of Supervisors of Davis County, Iowa, hereby certify that the foregoing is a correct copy of proceedings had by said Board at its January Term, 1865.

Witness my hand and official seal this 12th day of January, A. D., 1865.

(Signed) WM. J. LAW, Clerk.[9]

There are yet other testimonials to the distinguished service of the young soldier, among which may be men-

[9] *Supervisors' Record of Davis County,* Book "A", p. 381 (1861–1868).

tioned a very handsome medal of honor awarded to him by Congress in January, 1865, and which is highly prized by Dr. Dunlavy. The presentation of this medal was accompanied by a letter from the War Department, which reads as follows:

War Department, Adjutant General's Office.
Washington, March 29, 1865.

Sir: Herewith I enclose the medal of Honor which has been awarded you by the Secretary of War under the Resolution of Congress approved July 12th, 1862, to provide for the presentation of Medals of Honor to enlisted men of the army and volunteer forces who have distinguished or may distinguish themselves in battle during the present rebellion. Please acknowledge the receipt of it.

Very Respectfully,
Your obedient servant,
G. D. TOWNSEND,
Assistant Adjutant General.[10]

PRIVATE JAMES DUNLAVY,
Co. D, 3rd Iowa Cav.

On the back of the medal is engraved the following inscription:

THE CONGRESS
TO
PRIVATE JAMES DUNLAVY
Co. D,
3RD IOWA VET. CAVL.

Finally, there is still another testimonial to James Dunlavy's bravery which should not be overlooked. Major Jones, in his official report giving an account of the battle of Mine Creek, wrote as follows:

> We charged the enemy, breaking his right and center, killing, wounding and capturing many of his men. Among the captured were Generals Marmaduke and Cabell, the former by Private James Dunlavy, of Company D, and the latter by Sergeant C. M. Young, of Company L, both of the Third Iowa Cavalry.[11]

Considering the distinction of the prisoner, the extreme

[10] Original in the possession of Dr. Dunlavy.

[11] *Roster of Iowa Soldiers,* Vol. IV, p. 435.

youth of his captor, the courage and promptitude displayed by the latter in a trying and critical moment, and the clear and satisfactory evidence establishing the authenticity of the heroic deed, Private James Dunlavy is justly entitled to be honored as one of the bravest private soldiers in the Union Army during "the days which tried men's souls."

THOMAS JULIAN BRYANT

GRISWOLD, IOWA

CAPTAIN EDWIN V. SUMNER'S DRAGOON EXPEDITION IN THE TERRITORY OF IOWA IN THE SUMMER OF 1845

INTRODUCTION

The opening of the vast trans-Mississippi region to settlement necessitated something more than the mere payment of the purchase money to Napoleon: to occupy this Indian country under the cloak of legality the United States was confronted with the problem of procuring land cessions from the numerous tribes of Indians who claimed the country as the hunting-grounds inherited from their fathers. Accordingly, treaties or contracts of sale were entered into, and to prove its good faith the government generally stationed a fort with a body of horse troops in the neighborhood of the Indians to protect them in their treaty rights against that element of the American population which was always over-anxiously pushing its way into the Indian country to grab the best sites for farms.

The United States government wanted to preserve order upon the frontier, to prevent clashes between red men and whites, and to punish the tribes which made incursions into the lawful settlements of American pioneers. In the Territory of Iowa, for instance, Fort Atkinson was established in 1840 in the Neutral Ground then set apart for the Winnebagoes, who thereby became a sort of buffer nation between the Sioux on the north and the Sacs and Foxes to the south. The troops kept all these Indians within proper bounds and did not a little to thwart the introduction of their worst enemy, liquor in all its forms. Fort Des Moines, also, arose in 1843 to serve much the same purposes.

But not only were these troops intended to act as direct conservators of the peace upon the western frontier: they were despatched on expeditions to distant parts to impress the natives with their "vigor, alertness, and fine appearance", as well as with "the wise and humane admonitions" of their commanders. Thus, in the summer of 1845, among the many precautionary movements of the troops Colonel Kearny marched along the route of the Oregon emigration to the southern pass of the Rocky Mountains, and back by the valley of the Arkansas and the road of the Santa Fé traders. At the same time Captain Sumner[1] commanded a detachment consisting of his own and Captain Allen's company from Fort Des Moines on an expedition to the northern part of the Territory of Iowa (now Minnesota). The report of their saddle journey is now for the first time rescued from oblivion and reprinted from the *United States Senate Documents,* 1st Session, 29th Congress, No. 1, pp. 217–220.

JACOB VAN DER ZEE

THE STATE HISTORICAL SOCIETY OF IOWA
IOWA CITY

CAPTAIN SUMNER'S REPORT

[The following report is reprinted verbatim from *United States Senate Documents,* 1st Session, 29th Congress, No. 1, pp. 217–220.— EDITOR.]

FORT ATKINSON, I. T., *August* 23, 1845.

SIR: In compliance with instructions from department

[1] Edwin Vose Sumner, born in Boston, 1797; Second Lieutenant of Second Infantry, 1819; served in the Black Hawk War, 1832; Captain of First Dragoons, 1833; Major of Second Dragoons, 1846; brevetted Lieutenant Colonel for gallant conduct in the battle of Cerro Gordo, 1847; brevetted Colonel for gallant conduct at Molino del Rey, 1847; rose to the rank of Major General in the Civil War; died at Syracuse, N. Y., 1863, while on his way to take charge of the Department of the Missouri.— Heitman's *Historical Register.* Captain Sumner was also military commander and acting governor of New Mexico for a few months of the year 1852.

headquarters, dated May 7, 1845, I marched from this post with "B" company 1st dragoons[2] on the 3d day of June.

The prairies were very wet and the streams all full, which delayed my arrival at "Traverse des Sioux" till June 22. I came up with Capt. Allen,[3] on the 13th of June, about half way between this and the St. Peter's, and the companies continued together from that time. On the 16th of June, two men of "I" company 1st dragoons were seriously injured by the accidental discharge of a pistol. I sent those men down to Fort Snelling[4] by water. One of them, private Berry, died after his leg was amputated by Dr. Turner; the other, private Howard, the man by whose carelessness the accident happened, has recovered.

On my arrival at Traverse des Sioux, I found a boat from Fort Snelling, with my howitzers, provisions, &c. A great mistake was made in the provisions forwarded by Major R. B. Lee, commissary: instead of 31 barrels of flour, which should have been sent, 17 only were forwarded. This mistake subjected my command to great inconvenience, for I was not in a country where it could be corrected by purchase. I marched from Traverse des Sioux on the 25th of June, and reached "Lac-qui Parle"[5] on the 1st of July. I

2 The First Regiment of Dragoons with headquarters at Jefferson Barracks, St. Louis, Missouri, was distributed among the different frontier posts west of the Mississippi and was a species of military force peculiarly dreaded by the Indians.

3 Captain James Allen was the commandant at Fort Des Moines, and a classmate of Robert E. Lee and Joseph E. Johnston, and of Charles Mason, first Chief Justice of the Territory of Iowa. For a brief biographical sketch see THE IOWA JOURNAL OF HISTORY AND POLITICS, Vol. XI, p. 68.

Traverse des Sioux is the point where the Sioux Indians were accustomed to cross the St. Peter's River, now called the Minnesota. The name has survived in Nicollet County, Minnesota.

4 Fort Snelling established in 1819 as Fort St. Anthony at the confluence of the Minnesota and the Mississippi. It was the northernmost military post in the Territory of Iowa.

5 This lake is a widening of the Minnesota River.

found there a large band of "Warpeton Sioux;"[6] and after holding a council with them, I gave them a part of the presents that had been sent to me for the Indians. I said to these Indians, as I said afterwards to all those I met in council — that our government felt a deep interest in their welfare; and that so long as they conducted themselves properly, and did not wantonly molest the whites, they might be sure of protection. I impressed upon them, at the same time, the fact, that our government had now become so strong that no crime could remain unpunished — that there was no part of the Indian country in which a criminal could not be reached, and that he certainly would be. I was particular in this, as I do not think the disposition of the upper Sioux toward us is very friendly. They receive no annuities, and are not connected with us in any way, and they have always had a strong partiality for the British; I believe, principally, because that government has been more liberal in their presents to them. One thing I observed particularly — they seemed unwilling that we should interfere with the "half-breeds" from the British settlements; and I am convinced that the Indians would prefer that that people should continue to hunt upon their lands, than that our government should send troops through their country to keep them out. I asked them who had made the complaints about the inroads of the half-breeds, and they all professed their ignorance on the subject, disclaiming it entirely for themselves. I reached Big Stone lake[7] on the 5th of July, and on the 6th I met in council a large band of Sissitons,[8] and I gave them the residue of the presents. I am much

[6] The Wahpetons form one of the primary divisions of the Dakota or Siouan family. They had one of their most important villages upon the shores of this lake.— For these and succeeding statements about the Indians see the *Handbook of American Indians* published by the American Bureau of Ethnology.

[7] Also part of the Minnesota River.

[8] The Sissetons were another of the original tribes of the Dakota or Sioux.

inclined to think that the small presents we make to the Indians do more harm than good, for they serve as a contrast to the very liberal presents they formerly received from the English agents. I left Big Stone lake on the 7th of July. On the morning of the 8th I was holding an informal council, in the saddle, with a band of Sissitons, when three of the murderers of Watson and party, that escaped last fall from Col. Wilson's detachment of the 1st infantry, had the assurance to walk directly into the council. I recognised them at once, and instantly seized them as fugitives from justice. It produced a good deal of excitement at the moment; but I told the band it was useless to talk about it — the criminals were my prisoners, and would remain so; and that if they had any thing further to say about it, I should be back there in about a month, and they could say it then; and I purposely returned by the same route, in order that they might know where to find me. I took these prisoners with me to the end of my march, having them in confinement about forty days. On my return to Traverse des Sioux, I sent an officer with them, by water, to Du Buque, and there turned them over to the civil authority.

As an evidence of the ill-will of the upper Sioux, I was informed that they had said they were glad we were coming up; that they knew we had fine horses, and that they intended we should come back on foot. As the best method of guarding against this threat, I always took occasion to say to the Indians in council that I was not at all afraid of their stealing our horses, intimating by manner that they could try it as soon as they pleased; but I would just tell them, by way of caution, that if an Indian came near them at night he would be instantly shot; and it gives me great satisfaction to report that not an animal was stolen from the squadron this summer. I reached "Devil's lake," on the 48th degree of north latitude, on the 18th of July. On

that day I came upon the trail of the "half-breeds,"[9] and sent my interpreter and guide after them. They brought ten of the principal men to me, and the next morning I moved to their camp. There were about 180 men, including Indians that were with them. These half-breeds are descendants from the English, Scotch, Irish, and French. I had several talks with them, and I found them to be a shrewd and sensible people; but they are by no means as formidable as they have been represented to be. They have no discipline, no capable leaders, and they are hampered by their families. A few regular troops have nothing to fear from them. They said at once they had no idea of resisting the authority of the American government, and had never thought of such a thing for an instant. They had hoped that, although they were British subjects, their hunting excursions, within our limits, would be overlooked, as they were only hunting on the lands of their Indian parents; but above all, as the subsistence of their families actually depended upon them, that there was not game enough on their side of the line; that they had followed this life from childhood, and knew no other, and they did not know what they could do if our government inhibited them at once from their old hunting grounds. I told them they must perceive that their incursions into our country were violations of our territory, and that all governments were rightfully

[9] Near Devil's Lake, North Dakota. Nicollet, who was here with his exploring party in 1839, wrote as follows:

"The Metis of the Red River had, we perceived, formed a camp not far from the spot selected by us, which they had vacated but a few days before, on their return home, as we judged from the deep cuts of their loaded wagons. This was rather a disappointment to me, as I particularly wished to become acquainted with this people, among whom, it is said, are to be found the best hunters, the most expert horsemen, and the bravest warriors of the prairies. The information I have of them is this: They are called Metis, or half-breeds, being descendants of Canadians, English, and Scotch, crossed with Chippeways, Kristinaux, Assiniboins, Sioux, &c., &c. They represent the remains of Lord Selkirk's colony and of the Hudson Bay Company. As for many years they were only in small numbers, their incursions within the limits of the United

very jealous on these matters. They then asked me how they would be received if they should move across the line. I told them at once that I could give them no answer to that question, for I thought it would be an improper interference with the rights of their government for me to hold out any inducement for them to secede in a body from their allegiance. They then asked if no time could be granted in which they could change their habits. After due reflection, I advised them to address a letter to our government, asking *as a favor* that a year or two might be granted to them in order to give them a little time to commence some other course of life. I told them expressly that I could give them no encouragement to believe that their request would be granted; and if it was not, they must discontinue their incursions at once. It will be an extremely difficult thing to keep these people out of the country, if they should determine to disregard the order; not from any resistance on their part, but, on the contrary, from the confidence they will place in us. They know very well that their families and themselves will always be safe with United States troops, so long as they do not resist them; and they might continue to come into the country expecting even to meet us, but prepared to retire at once on being ordered to do so;

States were attended with danger to themselves, in consequence of outrages committed upon them by the full breeds, the Sioux, the Rikaras, the Mandans, the Minitarees, &c. But they have since greatly increased; they number from 600 to 800 people, and have become so formidable as to compel those tribes to seek an alliance with them, and thus to maintain peace. The Metis call themselves 'free people,' (gens libres;) but by their neighbors they are designated as 'Metis of the Red river,' 'the Red river People,' 'the People of the North.'

"It is their usage to come twice a year upon the territory of the United States where the buffalo abounds: each family has its cart or wagon drawn by oxen; each hunter has his horse, which is remarkably fleet. They are accompanied by missionaries, who regulate both their temporal and spiritual concerns. Their first campaign is made at the setting in of summer; their second in the fall of the year; and they remain about two months. Sometimes they divide themselves into two bands; directing themselves in this respect according to the distribution which they have previously ascertained of the buffalo herds over

and they would continue to retire so long as the troops remained in the country; but the moment we left it, they would return again to their old hunting grounds. There is a branch of the American Fur Company now established on the line near the British settlements, under the charge of Mr. Kitson, a very respectable and capable man. A number of these half-breeds are becoming connected in trade with this establishment, and I understood, indirectly, that many of them intended to move across the line this fall. There seemed to be a strong disposition among them to become citizens of the United States; and I am much inclined to believe that many of them will become so, within a few years, without receiving any encouragement from our government. There are in all, in this band of half-breeds, about 600 men, and they are increasing fast. I arrived at Traverse des Sioux, on my return, on the 7th of August. I saw many of the Sioux on my way down; and although they manifested but little friendship, they took care to show no hostility. In the summer of 1844, Captain Allen, while on a march in the Sioux country, lost a government horse

these immense plains. One-half of the hunters alternately watch over the camp, and the other half are in active pursuit of the game; and the slaughter of the buffaloes is kept up, according to settled usage, until each wagon is loaded with the spoils of ten of these animals.''— *House Executive Documents,* 2nd session, 28th Congress, No. 52, p. 49.

Governor John Chambers, Superintendent of Indian Affairs in the Territory of Iowa, made the following report in the year 1842: ''The more remote and wild bands of them [the Sioux] obtain it [liquor] from the British half-breeds from Lord Selkirk's colony, as it is called, on the Red river of the north, who meet them on their hunting grounds and conciliate them by presents of ardent spirits and other articles, while they destroy their game in vast quantities. These half-breeds are a numerous and formidable body of men, whose intercourse with the Sioux is not only injurious to them, but may eventually become dangerous to our Northwestern frontier, in the event of hostilities between the British Government and ours at any future period. They would exercise a dangerous influence over all the Indians on our Northwestern border, and, from their numbers and hardy and daring character would greatly endanger our border settlements.''— *House Executive Documents,* 3d session, 27th Congress, No. 2, pp. 415, 423.

and mule, and two horses belonging to officers of his command.[10] These animals were stolen by an Indian. I heard of this man frequently. He had been running about the country boasting of this feat, and I determined to arrest him if possible, as it appeared to me highly important that all Indians should be made to know that the horses of the government, on service in the Indian country, are inviolable, and that they cannot be touched by them without the certainty of punishment at the time, or afterwards. I arrested this Indian at Traverse des Sioux; but as there was no testimony against him, that would convict him before a court, I thought it unadvisable to turn him over to the civil authority. I sent him down to Fort Snelling, requesting Captain Backus to keep him in close confinement until he heard from division headquarters on the subject. I would respectfully refer this case to the commanding general of division. The Indian will not be released till orders to that effect are received at Fort Snelling.

I broke up the squadron at Traverse des Sioux on the 11th inst., ordering Captain Allen, with his company, to proceed to Fort Des Moines, and I reached this post with my own company on the 19th inst.

I am, sir, very respectfully, your obedient servant,

E. V. SUMNER,
Captain 1st dragoons.

The Acting Assistant ADJUTANT GENERAL,
Third Military Department, St. Louis, Mo.

Remarks

The Secretary of War, to whom this interesting report is

10 In his journal of an expedition to the headwaters of the Des Moines River and westward to the Big Sioux and back to Fort Des Moines, Captain Allen wrote at length of the theft which occurred near the present site of Sioux Falls, South Dakota.— *House Executive Documents,* 1st Session, 29th Congress, No. 168, p. 14. For a reprint of this document see THE IOWA JOURNAL OF HISTORY AND POLITICS, Vol. XI, pp. 73, 99, 100.

submitted, will, no doubt, be pleased with the firm and judicious conduct of Captain Sumner towards the Indians and half-breeds, mentioned within. The expedition has been made in conformity with a report submitted by me to the Secretary of War some ten or twelve months ago.

WINFIELD SCOTT.

NOVEMBER 10, 1845.

SOME PUBLICATIONS

The First Explorations of the Trans-Allegheny Region by the Virginians, 1650–1674. By CLARENCE WALWORTH ALVORD and LEE BIDGOOD. Cleveland: The Arthur H. Clark Co. 1912. Pp. 275. Plates, maps. While the romantic story of the adventures of the first Frenchmen in the Mississippi Valley has been told many times, the early explorations of the English into the land beyond the Allegheny Mountains have been generally overlooked or passed by with but little comment. Consequently the compilers of the present volume have rendered a distinct service in bringing together a number of hitherto scattered and inaccessible letters, journals, and other documents relative to the earliest adventures of Virginians into the western country — a story which awaits the pen of the historian.

The volume opens with an eighty-page introduction on *The Discovery of the Ohio Waters* by the compilers, which will perhaps prove somewhat disappointing to some readers, in that it contains very little about the Ohio River itself. Nevertheless, it presents a clear and interesting picture of the early western wanderings of enterprising Virginians and especially of the activities of Abraham Wood, whose career has hitherto been shrouded in obscurity. In a footnote on page twenty-four there are either two typographical errors or else two curious slips in regard to dates, for 1734 and 1754 are cited as the respective years of the explorations of Jean Nicollet and Radisson and Groseilliers.

Then follow the documents and manuscripts which occupy the larger part of the volume. First come several acts of the Virginia Assembly for the encouragement of western and southern exploration. Numbers two and three have to do with the discovery of "New Brittaine" by Abraham Wood and Edward Bland, and the discoveries of John Lederer. Governor Berkeley's activities as a promoter of exploration are described in a number of letters. Number five consists of a journal of the expedition of Thomas Batts

and Robert Fallam in 1671, together with other documents. The journeys of James Needham and Gabriel Arthur in 1673 are described in number six; while the concluding number consists of *Coxe's Account of the Activities of the English in the Mississippi Valley in the Seventeenth Century.* A bibliography and a good index complete the volume.

Minnesota Biographies 1655–1912. Compiled by WARREN UPHAM and MRS. ROSE BARTEAU DUNLAP. (*Collections of the Minnesota Historical Society,* Volume XIV.) St. Paul: The Minnesota Historical Society. 1912. Pp. 892. This large volume is in effect a biographical encyclopedia of Minnesota history. It contains about nine thousand brief biographical sketches, varying in length from three to ten or twelve lines, of men who have played a more or less important part in the history of Minnesota from the days of Radisson and Groseilliers, Du Luth, Hennepin, and Le Sueur down to the present time. In each case there are references to the sources where more extended biographical data may be found; and a list of these sources, over two hundred and forty in number, is to be found in the volume. Not only is the work valuable in that it brings together under one index information hitherto to be found only in scattered sources, but it furnishes a working basis for many important studies relative to the settlement and population of the State.

Frontier Defense on the Upper Ohio, 1777–1778. Edited by REUBEN GOLD THWAITES and LOUISE PHELPS KELLOGG. Madison: Wisconsin Historical Society. 1912. Pp. xviii, 329. Portraits, plates, maps. This volume is compiled from the Draper Manuscripts in the Library of the Wisconsin Historical Society, and is published at the expense of the Wisconsin Society of the Sons of the American Revolution.

The volume opens with a letter from General Edward Hand to Colonel David Shepherd shortly after the former took command of Fort Pitt early in the summer of 1777, and the transcripts cover the period from that date until General Hand was removed, at his own request, in May, 1778. It was a critical period on the western frontier, when the British and their savage allies were endeavoring

to drive the rebellious colonists back across the Alleghanies. The fact that Hand and his small body of troops were able to maintain the line of frontier posts from Kittanning to the Great Kanawha was of great significance to the American cause.

The manuscripts, consisting of letters to and from General Hand, letters and proclamations of the British General, Henry Hamilton, reports, memoranda, recollections, and other documents, present a vivid, first-hand picture of conditions along the western border line in the upper Ohio. For instance, there is Stuart's narrative of the dastardly murder of the famous Shawnee chief, Cornstalk, an act which was revenged by the Shawnees by many cruel murders and devastating raids. The volume also contains a number of letters relative to the preparations for George Rogers Clark's eventful expedition into the Illinois country, the real object of which was not known at that time. Copious editorial foot-notes elucidate the text, and the volume will prove very useful as a source-book for the history of the events which it covers.

A Journey to the Rocky Mountains in the Year 1839. By F. A. WISLIZENUS, M. D. Translated from the German, with a Sketch of the Author's Life, by FREDERICK A. WISLIZENUS. St. Louis: Missouri Historical Society. 1912. Pp. 162. Portrait, map. Dr. Wislizenus, the author of this interesting account of early western travel, was born in Germany in 1810, took part in the student attack on Frankfort in April, 1833, received the degree of doctor of medicine at the University of Zurich, and came to New York in 1835. During the following year he moved to Illinois not far from St. Louis, and took up the practice of medicine. Then in 1839 came his journey to the northwest, the account of which was first published, in the German language, in 1840. Six years later he made another trip, this time to Santa Fé and Mexico, where he encountered many difficulties on account of the war which was then in progress. During subsequent years he traveled widely, in this country and in Europe, later making his home in St. Louis, where he died in 1889.

Dr. Wislizenus left St. Louis in April, 1839, on the journey which is described in the translation of his own account. The party of

which he was a member went overland along the Platte River and the South Fork, then across to the North Fork, on to Fort Laramie, across the Black Hills and the Wind River and Rocky Mountains, to Fort Hall and the Columbia River. The account contains many details of a scientific character, and comments on the buffalo, the Indians, the Hudson's Bay Company, and various other topics.

The book which is published in a limited edition of five hundred copies is a handsome specimen of the book-maker's art. The Missouri Historical Society is to be thanked for having made such a worthy addition to the literature of western American travels.

AMERICANA

GENERAL AND MISCELLANEOUS

Provision has been made for the publication of a third volume of Kappler's *Laws and Treaties Relating to Indian Affairs.*

In the *Journal of the United States Cavalry Association* for January there is a short article on *Forgotten Cavalrymen,* by Eben Swift.

Mine-Rescue Work in Canada is described by W. J. Dick in an illustrated pamphlet of fifty pages issued by the Canadian Commission of Conservation.

G. P. Putnam's Sons have issued a volume by Robert W. McLaughlin on *Washington and Lincoln: Leaders of the Nation in the Constitutional Eras of American History.*

A doctoral dissertation offered at the University of Pennsylvania by William Warren Sweet appears as a volume entitled *The Methodist Episcopal Church and the Civil War.*

Allen Johnson, formerly of Grinnell College, is the compiler of a volume of *Readings in American Constitutional History, 1776–1876,* which has been published by the Houghton, Mifflin Company.

The Library of Congress has published *A Check List of American Eighteenth Century Newspapers in the Library of Congress,* compiled by John Van Ness Ingram, which will prove of much value to investigators.

A Select List of References on the Initiative, Referendum, and the Recall has been issued by the Division of Bibliography of the Library of Congress and a *Select List of References on Commission Government for Cities* will soon appear.

The Macmillan Company has published a volume containing the first part of a work on *The New Testament Manuscripts in the Freer Collection,* by Henry A. Sanders. The present volume is devoted to *The Washington Manuscript of the Four Gospels.*

The Democrats and the Tariff, by Henry C. Emery; *Popular Elections of Senators,* by Max Farrand; *The Modern Newspaper as it Might Be,* by A. Maurice Low; and *The Fame of Cromwell,* by Wilbur C. Abbott, are among the articles in the *Yale Review* for January.

The *Bulletin of the New York Public Library* for January contains part four of the *List of City Charters, Ordinances, and Collected Documents.* In the February number will be found the annual report of the library for the year ending December 31, 1912.

In the December number of the *Bulletin of the Pan American Union* there is an illustrated article on the *Archives of Old Seville,* by Charles Warren Currier; as well as sketches of the history of the flag, coat of arms, and national holidays of the republic of Salvador.

The third chapter of John J. Stevenson's study of *The Formation of Coal Beds,* and a paper on *Some Former Members of the American Philosophical Society,* by Thomas Willing Balch, are among the contents of the October-November number of the *Proceedings of the American Philosophical Society.*

The University of Pennsylvania has published a volume of *Studies in the History of English Commerce in the Tudor Period.* The volume contains the following three studies: *The Organization and Early History of the Muscovy Company,* by Armand J. Gerson; *English Trading Expeditions into Asia under the Authorship of the Muscovy Company,* by Earnest V. Vaughn; and *English Trade in the Baltic During the Reign of Elizabeth,* by Neva Ruth Deardorff.

A letter from Messrs. J. P. Morgan and Company in response to the invitation of the Sub-Committee (Hon. A. P. Pujo, Chairman) of the Committee on Banking and Currency of the House of Representatives has been printed in pamphlet form. It contains a clear statement of one view of the problem of business and financial depression.

The Pilgrim Magazine, which made its initial appearance in January, is the official organ of the Pilgrim Tercentennial League, formed for the purpose of "creating, increasing and perfecting a National movement for the Celebration of the Three Hundredth Anniversary of the Landing of the Pilgrims to be held in New England in 1920."

The *Report of the Librarian of Congress* for the year ending June 30, 1912, contains, among other things, a review of the most important accessions to the Division of Manuscripts during the year. Special mention is made of the so-called House of Representatives Collection and of a collection of letters and medals formerly belonging to the late Captain Matthew Fontaine Maury.

A bulletin issued in October by the Virginia State Library contains *A List of Newspapers in the Virginia State Library, Confederate Museum and Valentine Museum,* compiled by Mrs. Kate Pleasants Minor and Susie B. Harrison. The January bulletin is devoted to *A List of Manuscripts Relating to the History of Agriculture in Virginia,* compiled by Earl G. Swem.

The February number of the *American Labor Legislation Review* contains the papers read at the sixth annual meeting of the American Association for Labor Legislation. Among the papers may be mentioned: *How the Wisconsin Industrial Commission Works,* by John R. Commons; *A Laborer's View of Factory Inspection,* by Henry Sterling; *An Employer's View of Factory Inspection,* by Charles Sumner Bird; *The Efficiency of the Present Factory Inspection Machinery in the United States,* by Edward F. Brown; *The Need of a New Federal Employees' Accident Compensation Law,* by Charles Earl; *Rest Periods for the Continuous Industries,* by John A. Fitch; and *The Theory of the Minimum Wage,* by Henry Rogers Seager.

The *Report of the Board of Arbitration* in the matter of the controversy between the eastern railroads and the Brotherhood of Locomotive Engineers in 1912 has been published in a volume of over one hundred and twenty pages, and is a contribution to the subject of industrial relations. President Charles R. Van Hise of the University of Wisconsin was the Chairman of the Board of Arbitration.

The American Journal of Sociology for January contains the following contributions: *The Present Outlook of Social Science,* by Albion W. Small; *Social Values,* by Edward C. Hayes; *Chicago Housing Conditions: Two Italian Districts,* by Grace Peloubet Norton; *The Institutional Character of Pecuniary Valuation,* by Charles H. Cooley; and *Preventing Cruelty to Children,* by Henry Pratt Fairchild.

Articles in *The Scottish Historical Review* for January are: *Loose and Broken Men,* by R. B. Cunninghame Graham; *A Forgotten Scottish Scholar of the Sixteenth Century,* by P. Hume Brown; *Authorship of the Chronicle of Lanercost,* by James Wilson; *Hamilton of Kincavil and the General Assembly of 1563,* by J. R. N. Macphail; and *James Mill in Leadenhall Street, 1819–1836,* by W. Foster.

Among the articles in the January number of *American Industries* are the following: *Enlarging the Outlets of Commerce,* by James J. Hill; *Vocational Education,* by H. E. Miles; and *Law and Liberty vs. Lawlessness,* by John Kirby, Jr. In the March number A. Parker Nevin discusses *Business and the New Administration;* and there are extracts from an address on *Lawless Leadership and Treason,* by Charles W. Miller.

Foreign Missions and World Peace is the subject of an address by Samuel B. Capen which occupies the pamphlet published in October, 1912, by the World Peace Foundation. Beginning with the January number, which contains the report of the work of the Foundation for 1912, the pamphlets are issued monthly instead of quarterly. The February number contains an article on *The Wounded,* by Noel Buxton; and a discussion of *Women and War,* by Mrs. St. Clair Stobart.

An Ethical Aspect of the New Industrialism is the subject of a very interesting address by Alvin Saunders Johnson which appears in *The South Atlantic Quarterly* for January. Louis Martin Sears presents a study of *Slidell's Mission to Mexico.* Other articles are: *The West Indian Negro Question and the French National Assembly, 1789–1791,* by Mitchell B. Garrett; *The Rural Life Problem of the South,* by John Lee Coulter; and *Was John Randolph a Lunatic?,* by D. Hamilton Willcox.

European Systems of State Indemnity for Errors of Criminal Justice, by Edwin M. Borchard; *Insanity and Criminal Responsibility,* by Edwin R. Keedy; *Criminal Procedure in Scotland,* by the same author; *The Prevalence of Crime in the United States and Its Extent Compared With That in the Leading European States,* by Julius Goebel, Jr.; and *Inference from Claim of Privilege by Accused,* by Walter T. Dunsmore, are articles in the January number of the *Journal of the American Institute of Criminal Law and Criminology.*

Bulletin number fifty-two issued by the Bureau of American Ethnology of the Smithsonian Institution is a critical monograph on *Early Man in South America,* by Ales Hrdlicka in collaboration with W. H. Holmes, Bailey Willis, Frederick Eugene Wright, and Clarence N. Fenner. "The conclusions of the writers with regard to the evidence thus far furnished are that it fails to establish the claim that in South America there have been brought forth thus far tangible traces of either geologically ancient man himself or of any precursors of the human race."

Irving Fisher is the writer of an article entitled *A Compensated Dollar* which appears in the February number of *The Quarterly Journal of Economics,* and which is pertinent to the problem of monetary reform. Other contributions are: *The Organization of the Boot and Shoe Industry in Massachusetts Before 1875,* by Blanche E. Hazard; *The Locomotive Engineers' Arbitration: Its Antecedents and Its Outcome,* by W. J. Cunningham; *The Decision on the Union Pacific Merger,* by Stuart Daggett; and the second chapter of *Frankfort-on-the-Main: A Study in Prussian Communal Finance,* by Anna Youngman.

Who is Responsible?— An Interpretation of the Recent Trials is the heading of an article by Samuel Gompers which appears in the *American Federationist* for February. *Prison Reform* is the subject of an address by Oswald West, Governor of Oregon. In the March number Samuel Gompers gives an account of *The Struggles in the Garment Trades;* there is another installment of the history of *Railroad Strikes Since 1877,* by Arthur E. Holder; and Frank Duffy discusses *The Relation of Industrial Education to the Laboring People.*

Volume six of the *Biographical Sketches of the Graduates of Yale College with Annals of the College History,* by Franklin Bowditch Dexter, covers the years and classes from 1805 to 1815. It is stated in the preface that this volume will close the series, because class records since 1815 are available and the "Obituary Records" which have been published annually since 1860 cover much of the ground. It is planned, however, to publish a supplementary volume which will contain all biographical data not to be found in class records or obituary records since 1815.

The functions of the stock exchange, the uses and abuses of speculation, the bear and short selling, the relationship between the banks and the stock exchange, publicity in exchange affairs, panics and the crisis of 1907, a brief history of legislative attempts to restrain or suppress speculation, the day on exchange with suggestions for beginners, the London stock exchange, and the Paris Bourse are the subjects treated in the ten chapters of a volume on *The Stock Exchange from Within,* by W. C. Van Antwerp, which has been brought out by Doubleday, Page and Company.

The pamphlet issued in January by the American Association for International Conciliation contains an address on *The Spirit of Self-Government,* by Elihu Root. *The Time to Test Our Faith in Arbitration* is the subject of an address by William Howard Taft which appears in the February number, where may also be found a discussion of the question, *Should the Panama Canal Tolls be Arbitrated,* by Amos S. Hershey. The March number is devoted to a select list of books, pamphlets, and periodicals on the subject of *Internationalism,* compiled by Frederick C. Hicks.

Canadian National Problems is the general subject of discussion in *The Annals of the American Academy of Political and Social Science* for January. Among the various papers on special topics are: *Reciprocity,* by Clifford Sifton; *Canada and the Preference: Canadian Trade with Great Britain and the United States,* by S. Morley Wickett; *The Legal Status of Hudson's Bay,* by Thomas Willing Balch; *The United States and Canada in Their Hundred Years of Peace,* by James L. Tryon; *Canadians in the United States,* by S. Morley Wickett; and *Canada and the Chinese: A Comparison with the United States,* by Paul H. Clements.

Neale's Monthly is the name of a new periodical which made its appearance in January. The initial number contains the following articles of historical or political interest: *The Strategy of Robert E. Lee,* by J. J. Bowen; *The Proposed Presidential Reforms,* by William Estabrook Chancellor; the beginning of a series of articles on *Forerunners of the Republic,* by Archibald Henderson, in which will be found a sketch of the life of Richard Henderson of the Transylvania Company; and the first installment of an account of *Wall Street as Our American Monte Carlo,* by Franklin C. Keyes.

The nineteenth volume of the Library of Congress edition of the *Journals of the Continental Congress 1774–1789,* edited from the original records by Gaillard Hunt, covers the period from January 1 to April 23, 1781; while volume twenty carries the record down to July 22nd of the same year. The period covered in these two volumes is especially significant because of the adoption of the Articles of Confederation and the efforts which were immediately made to secure amendments and modifications. Furthermore, it was during this time that negotiations looking toward peace received a fresh impetus.

Among the many articles in the *National Municipal Review* for January are the following: *Simplicity, Publicity and Efficiency in Municipal Affairs,* by Clinton Rogers Woodruff; two papers on *State vs. Municipal Regulation of Public Utilities,* one by John Morton Eshleman and the other by Lewis R. Works; *Bureaus of Public Efficiency,* by Myrtile Cerf; *Research and Reference Bureaus,* by Edward M. Sait; *Taxation in Philadelphia,* by Louis

F. Post; *The Theory of the New Controlled-Executive Plan,* by Richard S. Childs; *Women and Local Government in the United Kingdom,* by H. Marie Dermitt; and *Pacific Northwest Municipalities,* by Charles G. Haines.

The December number of *Americana* opens with a brief sketch of the *Falls of the Ohio, the Battle Ground of Tradition and History, the Carrying Place of Early Navigation and the Birthplace of Civilization in Kentucky,* which is accompanied by a map drawn in 1766. Another unsigned sketch is headed *The Stars and Stripes on Fort Schuyler, August 3, 1777;* and there is an article on *The Filson Club and its Publications,* by Reuben T. Durrett. The January number contains, among other things, a biographical sketch of *Reuben Thomas Durrett,* by John Howard Brown; and some *Traditions of the Earliest Visits of Foreigners to North America,* by Reuben T. Durrett, which will be continued.

Europe's Many-Sided Democracy, by Jesse Macy; *The Newspaper Publicity Law,* by Jonathan Bourne, Jr.; *How Boston Received the Emancipation Proclamation,* by Fanny Garrison Villard; *Preparing the Upper Mississippi for Modern Commerce,* by W. C. Tiffany; *The Hudson Bay Route — Trans-Continental and Trans-Oceanic,* by P. T. McGrath; and *How the Iowa State Colleges are Getting Together,* by William R. Boyd, are articles in the February number of *The American Review of Reviews.* In the March number among the contributions are: *Illinois Working for Permanency in Agriculture,* by B. E. Powell; *American Railway Accidents — A "Safety First" Campaign,* by Herbert T. Wade; *Sugar and the Tariff,* by A. G. Robinson; and *The New Balkan Diplomacy: Venezelos and Danev,* by J. Irving Manatt.

Volume six, number three of *The Journal of American History* opens with a second installment of the biography of *Edmond Charles Genet,* by Louis Franklin Facio Genet. Under the heading, *Eighty Years Ago in the Great Middle West,* Margaret Gist presents two interesting letters written in 1832 by George Washington Gist describing his journey in charge of the removal of the Seneca Indians from Ohio to Arkansas. *The Joscelyn-Joslin Family* is the subject of a genealogical sketch by Laura Elmendorf

Skeels. Then follows an address by Archbishop Ireland on *Patriotism, Its Duty and Value.* Other contributions are: *The Mythology of the North American Indian,* by Imogene Fontaine; *To the Gold Fields of Forty-Nine by Way of Cape Horn,* by Margaret D. Plympton; *A Souvenir of the Days of the Underground Railroad,* by Lucie P. Stone; and *Jefferson's Plan for the Development of American Agriculture.*

Among the articles in *The Survey* during the past quarter are the following: *The Relation of Voluntary to Political Action,* by Simon N. Patten; *What I Saw in America,* by Thomas Oliver; *Constructive Investigation and the Industrial Commission of Wisconsin,* by John R. Commons; *Is An Organized Country Life Movement Possible?,* by George Frederick Wells; *Public Pensions to Widows With Children,* by C. C. Carstens (January 4); *Labor Laws for Women,* by Josephine Goldmark (January 25); *The Status and Vocation of our Colored People,* by George Burman Foster; *The Basis of Race Adjustment,* by George Edmund Haynes; *Social Effects of Emancipation,* by W. E. Burghardt Du Bois; *Our Country's Lynching Record,* by Ida B. Wells-Barnett; *A Civic Problem and a Social Duty,* by George Packard; *The Parting of the Ways in American Socialism,* by Mary Brown Sumner (February 1); *Our National Trial Balance,* by Kate Holladay Claghorn; *The Canal Builders,* by Edward T. Devine (March 1).

A Descriptive List of Maps of the Spanish Possessions Within the Present Limits of the United States, 1502–1820, by the late Woodbury Lowery, edited with notes by Philip Lee Phillips, has been published by the Library of Congress. In his will Woodbury Lowery, who died in April, 1906, left to the Library of Congress his large and valuable collection of transcripts, documents, maps, and books relating to Florida, Louisiana, Texas, New Mexico, California, and other former Spanish possessions in North America. The collection was gathered by Mr. Lowery while preparing his two-volume history of *The Spanish Settlements Within the Present Limits of the United States.* The descriptive list now published describes 750 maps, of which 306 are in the Lowery collection, 206 in the Map Division of the Library of Congress, while the remainder

are to be found in Paris, London, and elsewhere. An effort is being made to secure photographic reproductions of these latter maps so that the list as described may be complete. The volume will be of great service to students of early American history.

A brief report on *Remains in Eastern Asia of the Race that Peopled America,* by Ales Hrdlicka, appears in volume sixty of the *Smithsonian Miscellaneous Collections.* In his conclusion, the writer states that "it may be said that from what he learned in eastern Asia, and weighing the evidence with due respect to other possible views, the writer feels justified in advancing the opinion that there exist to-day over large parts of eastern Siberia, and in Mongolia, Tibet, and other regions in that part of the world, numerous remains, which now form constituent parts of more modern tribes or nations, of a more ancient population (related in origin perhaps with the latest paleolithic European), which was physically identical with and in all probability gave rise to the American Indian." There are cuts of a number of eastern Asiatic natives, who, to the average observer at least, are surely indistinguishable from present-day American Indians.

The *Report of the Thirtieth Annual Lake Mohonk Conference of Friends of the Indian and Other Dependent Peoples* contains the papers and addresses at the meetings held on October 23–25, 1912. Among the many papers in the volume may be mentioned: *Some Observations of Conditions in the Five Civilized Tribes,* by George Vaux, Jr.; *Some Suggestions for Protecting the Indian's Property Interests and his General Welfare,* by Matthew K. Sniffen; *The Lesson of White Earth,* by Warren K. Moorehead; *Indian Administration,* by Edgar B. Meritt; *The Indian Question from a Canadian Standpoint,* by Frank Pedley; *The Non-Christians of the Southern Islands of the Philippines — Their Self-Government and Industrial Development,* by John P. Finley; *The Filipino Youth and the Independence of the Philippines,* by Maximo M. Kalaw; *National Sincerity and the Philippine Issue,* by H. Parker Willis; *Pending Legislation Providing for Philippine Independence,* by William A. Jones; *Our Duty in Caribbean America,* by William Bayard Hale; *San Domingo and the United States,* by Jacob H. Hollander; and *The Sanitary Condition of the Natives of Alaska,* by M. H. Foster.

Ginn and Company have brought out a new *Guide to the Study and Reading of American History,* by Edward Channing, Albert Bushnell Hart, and Frederick Jackson Turner, which is a revised and augmented edition of the Channing and Hart volume published several years ago. The present book is an improvement over the earlier work in many ways. It is brought down to date, it furnishes references to a larger number of accessible sources, and pays more attention to western history and to social and economic history. At the same time, it is believed that in certain respects the literature of western history could have been drawn upon to greater advantage. For instance, it would seem that the biography of a man like Henry Dodge should have received some mention in the volume. Furthermore, there is a great mass of material in the publications of western historical societies which is of much more than local value and interest, but which is not referred to in the *Guide,* although these publications have been consulted on certain subjects.

The American Political Science Review for February opens with the presidential address on the subject, *A Government of Men,* delivered by Albert Bushnell Hart at the annual meeting of the American Political Science Association in December, 1912. Other contributions in this number are: *The President's Cabinet,* by John H. Fairlie; *Expert Administration in Popular Government,* by A. Lawrence Lowell; and *Diplomatic Affairs and International Law, 1912,* by Paul S. Reinsch. The supplement to this number of the *Review* contains the *Proceedings of the American Political Science Association* at the annual meeting held at Boston and Cambridge, December 28–31, 1912. Among the papers read at this meeting were: *How We Have Been Getting Along Without a Budget,* by Frederick A. Cleveland; *The Limit of Budgetary Control,* by Frank J. Goodnow; *Suggestions for a State Budget,* by S. Gale Lowrie; *The Theory of the Nature of the Suffrage,* by Walter James Shepard; *Good Government and the Suffrage,* by H. A. Garfield; *Certain Retrogressive Policies of the Progressive Party,* by Frederic J. Stimson; *The Democratization of Party Finance,* by Walter E. Weyl; and *The Belgian Political Situation,* by J. Salwyn Schapiro.

WESTERN

Number sixty-eight of the *Bulletin of the University of New Mexico* contains a discussion of *The Relation of the Universi y to the State,* by David Ross Boyd.

A recent number of the *University of Michigan Historical Studies* contains a monograph on *English Rule in Gascony, 1199–1259, with Special Reference to the Towns,* by Frank Burr Marsh.

Shall We Change Our City Government? is the title of a pamphlet issued by the Bureau of Municipal Research of Dayton, Ohio, in which may be found a concise and graphic statement of three types of municipal administration.

The Railroads of the "Old Northwest" Before the Civil War is the subject of a paper by Frederic L. Paxson which has been reprinted from the *Transactions of the Wisconsin Academy of Sciences, Arts, and Letters.*

In *The Rocky Mountain Herald,* published at Denver, Colorado, on January 11th there is an interesting article on *The Grand Cañon of the Colorado,* by Will C. Ferril, in which is told the story of the adventures of James White while exploring the cañon in 1867.

The *Bulletin of the Indiana State Library* published in January contains lists of references on such subjects as the recall of judicial decisions, the recall of judges, federal control of interstate corporations, federal vs. State rights, workingmen's compensation, third term for the President of the United States, Panama canal tolls, and agricultural credit.

The second number of the excellent *Handbook Series* published by the American Museum of Natural History deals with the *Indians of the Southwest* and Pliny Earle Goddard is the author. Chapter one is devoted to the ancient peoples; chapter two to the modern Pueblos, including the explorations of Cabeza de Vaca, Marcos de Niza, and Coronado; and chapter three to the nomadic peoples. There are a number of maps and a great many cuts and illustrations.

Four recent numbers of the *Anthropological Papers of the American Museum of Natural History* are the following: *Social Life of the Crow Indians,* by Robert H. Lowie; *Texts and Analysis of Cold Lake Dialect, Chipewyan,* by Pliny Earle Goddard; *Chippewyan Tales,* by Robert H. Lowie; and *Societies and Ceremonial Associations in the Oglala Division of the Teton-Dakota,* by Clark Wissler.

A Study of Physiognomy: Factors in the Evolution of the Human Face, by Robert Bennett Bean; a continuation of the study of *The Towns of Roman Britain,* by H. H. Clifford Gibbons; *Anthropology, Past and Present,* by Alton Howard Thompson; *The Riddle of the American Sphinx; The Serpent Mound,* by Felix J. Koch; and *Indian or What?,* by John O. Viking, are articles in the October-December number of *The American Antiquarian and Oriental Journal.*

With the January number *The University of California Chronicle* comes out in new and improved style, being printed on paper of a better quality and having a more attractive cover. Among the contents of the number may be mentioned: *The Philosophical Basis of Socialism,* by George P. Adams; *The Social Contract,* by Bert J. Morriss; and the *Record of the Dedication of the New College of Agriculture and of the Installation of Dean Thomas Forsyth Hunt, November 20, 1912.*

In the January number of *The Graduate Magazine of the University of Kansas* may be found letters from the Governors of several western States relative to the millage tax plan for the support of educational institutions. *A Vacation in the Seventies* is the subject of a sketch by J. A. Wickersham. In the February issue there is a discussion of the single board plan for the government of the State educational institutions of Kansas, and a *Description and History of the University in Statistical Form.*

The Quarterly Journal of the University of North Dakota for January opens with a study of *Poor Relief and Jails in North Dakota,* by John Morris Gillette. *The Aldrich Banking Plan: With Special Reference to North Dakota* is the subject of an article by Meyer Jacobstein. Two other contributions are: *A Lesson for*

the United States, by James E. Boyle; and *Partisan Scholarship,* by O. G. Libby. In the latter article the writer protests against the tendency shown by the authors of many recent books on historical and political topics to present only those facts which support a particular theory or prejudice.

IOWANA

Among the articles in the January number of *Iowa Factories* is one on *Workmen's Compensation.*

John D. Yeoman is the writer of some *Recollections of Thirty Years Ago,* which are printed in the *Fremont Gazette,* on March 13th.

Science Ethical is the subject of an address by Thomas H. Macbride which has been published in pamphlet form by the Torch Press.

In the *Dubuque Telegraph-Herald* for March 23rd may be found some interesting sketches of the history of the various churches in Dubuque.

Alumni Write History and *Solons Who Graduated* are the headings given to two sketches in the February number of *The Iowa Alumnus.*

The Clinton Advertiser for March 14th contains an article on the *Lyons Pioneer Germans Society* which was organized late in the year 1859.

Bulletin number twenty-eight of the *Engineering Experiment Station* at Ames contains a survey of *Road Legislation and Administration in Iowa,* by John E. Brindley.

Electric Power from the Mississippi is the title of a pamphlet descriptive of the water-power development at Keokuk, which has been issued by the Mississippi River Power Company.

Historical articles in *The American Freemason* during the past three months are: *The Writing of Lodge History,* by Joseph E. Morcombe (January); and *Royal Arch Masonry,* by A. C. Kemmis (March).

In the January number of *The Grinnell Review* there is a biographical sketch of Erastus Ripley under the heading of *The First Professor of Iowa College.* There is also a brief letter written from England by Jesse Macy.

In the *Corning Union-Republican* for January 29th there is a communication from Louis Akin strongly urging the formation of a county historical society in Adams County. It is to be hoped that the suggestion will be followed at an early date.

George B. Caldwell gives an account of *Investment Bankers and their Work* in the January number of *The Northwestern Banker.* Articles in the March number are: *Origin of Finger Prints — Their Use in Banks,* by P. A. Flak; and *Problems of Today that Demand Consideration,* by August Blum.

G. S. Robinson, Chairman of the Board of Control of State Institutions of Iowa, is the author of a pamphlet on the *Employment of Prisoners.* Among the subjects discussed are southern prison systems; road-making in Colorado, Georgia, and Oklahoma; farming; problems in Iowa; competition with free labor; and State use and State account.

Culture in Vocational Education, by J. H. Beveridge, is an article in the December number of *The Alumnus* published at the Iowa State College at Ames. In the January number there is an account of the *Silver Anniversary of the Iowa Veterinary Association and Reunion at Ames,* by Robert W. Ellis; while in the February issue there are some *Echoes from the Seventies,* by W. M. Scott.

A biographical sketch of *M. L. McPherson,* written by his nephew, Smith McPherson, has been published in pamphlet form and dedicated to the Madison County Historical Society. Marquis Lafayette McPherson came to Winterset, Iowa, in 1850 and took up the practice of law. He entered politics and served for four sessions in the State Senate, and he was a delegate to the National Republican Convention at Chicago in 1860. He served in the army during the Civil War, and in 1869 he was elected judge of the Third Judicial District of Iowa, which position he held until ill health forced him to retire. He died in December, 1871.

Factors in the Development of a Greater Iowa is the subject of an address by Albert M. Deyoe which appears in the February number of *Midland Schools.* Among the contents of the March number are: *The Training of Teachers in Iowa,* by Frank L. Smart; *Iowa Needs More Normal Schools,* by E. J. H. Beard; and *The Demands of Modern Education,* by W. A. Brandenberg.

In *Autumn Leaves* for January and February there are continuations of the *Biography of Alexander Hale Smith,* by Inez Smith. In the March number there is the first installment of an account of the *Religious Beliefs of the American Indians,* by H. A. Stebbins; and a *Biographical Sketch of Brother H. Thornton,* in which is told the story of crossing the plains in the early days and of early experiences in Utah.

The January number of the *Journal of History* published at Lamoni by the Reorganized Church of Jesus Christ of Latter Day Saints opens with an article on *Prehistoric America and the Book of Mormon,* by Henry A. Stebbins. Another article is one dealing with *Zion's Camp, or the Expedition to Missouri: Its Purpose,* by Charles Fry. The remaining pages are taken up with continuations of biographical and autobiographical sketches.

What Kansas is Doing for her Municipalities, by Richard R. Price; and *The City Economic,* by L. L. Tribus, are articles in the January number of *American Municipalities.* In the February number J. D. Glasgow discusses *Sanitation of Cities;* and there is a *Report of the Committee on Public Utility Statistics,* by J. F. Ford. This report is continued in the March number, where may also be found an article on *Sidewalks and Sidewalk Ordinances,* by B. F. Swisher.

The Road-Maker for January contains the proceedings of the meeting of the State Good Roads Association at Des Moines on December 17 and 18, 1912. Among the papers were: *State and County Organization for Road Administration,* by F. F. Jones; *Permanent Roads: Are We Ready for Them?,* by W. G. Raymond; and *The Automobile Tax: What Best Use Can be Made of It?,* by Henry Wallace. An article which appears in this number is one by E. I. Lewis on *The Real Thing in Good Roads.*

SOME RECENT PUBLICATIONS BY IOWA AUTHORS

Botsford, George Willis,
A Source Book of Ancient History. New York: The Macmillan Co. 1912.

Branch, Homer P.,
Stories in Rhyme. Sumner, Iowa: Published by the author. 1912.

Cole, Cyrenus,
Anna Marcella's Book of Verses. Cedar Rapids: The Torch Press. 1912.

Conger, Sarah Pike,
Old China and Young America. Chicago: F. G. Brown & Co. 1913.

Durley, Ella Hamilton,
The Standpatter. New York: Herald Square Publishing Co. 1913.

Ferber, Edna,
Roast Beef Medium. New York: Frederick A. Stokes. 1913.

Foster, Warren Dunham (Joint author),
Heroines of Modern Progress. New York: Sturgis & Walton. 1913.

Gilson, Roy Rolfe,
The Legend of Jerry Ladd. Garden City: Doubleday, Page & Co. 1913.

Grow, Oscar,
The Antagonism of Races. Waterloo: Published by the author. 1913.

Hatfield, Clarence E.,
The Echo of Union Chapel. New York: The Broadway Co. 1912.

Holst, Bernhart Paul,
Poems of Friendship, Life, Home, Love, Religion, and Other Poems. Boone, Iowa: Published by the author. 1913.

Hornaday, William Temple,
Our Vanishing Wild Life, Its Extermination and Preservation. New York: Charles Scribner's Sons. 1913.

Hughes, Rupert,

Music Lovers' Cyclopedia (New and revised edition). Garden City: Doubleday, Page & Co. 1912.

The Amiable Crimes of Dirk Memling. New York: D. Appleton & Co. 1913.

The Lady Who Smoked Cigars. New York: Desmond Fitz Gerald. 1913.

Hutchinson, Woods,

Common Diseases. Boston: Houghton, Mifflin & Co. 1913.

Macbride, Thomas H.,

Science Ethical. Cedar Rapids: The Torch Press. 1912.

Maclean, Paul,

History of Carroll County, Iowa. Chicago: The S. J. Clarke Publishing Co. 1912.

Robinson, G. S.,

Employment of Prisoners. Anamosa: Reformatory Print. 1913.

Rockwood, Elbert W.,

Introduction to Chemical Analysis for Students of Medicine, Pharmacy, and Dentistry (Fourth Edition). Philadelphia: P. Blakiston's Sons & Co. 1912.

Rogers, Julia Ellen,

The Book of Useful Plants. Garden City: Doubleday, Page & Co. 1913.

Seerley, Homer H.,

The Country School. New York: Charles Scribner's Sons. 1913.

Smith, Franklin Orion,

A Rational Basis for Determining Fitness for College Entrance. Iowa City: The State University of Iowa. 1912.

Smith, Fred B.,

A Man's Religion. New York: Association Press. 1913.

Thanet, Octave (Alice French),

A Step on the Stair. Indianapolis: The Bobbs-Merrill Co. 1913.

Thompson, Elbert N. S.,
The Theme of Paradise Lost. The Modern Language Association of America. 1913.

Tjernagel, T.,
Paragraphs of a Pedestrian. Northfield, Minn.: Mohn Printing Co. 1913.

SOME RECENT HISTORICAL ITEMS IN IOWA NEWSPAPERS

The Register and Leader

Alexander Scott, Man who Built First State House, January 5, 1913.
Hunting Elk in Iowa Just as in the Pioneer Days, January 5, 1913.
The Grindstone War and Fort Janesville in Northern Iowa, January 19, 1913.
Iowa Land Marks Should be Made Into Monuments, January 19, 1913.
Early Day Desperadoes, by O. H. Mills, January 19, 1913.
C. J. McFarland, Noted Early Iowa Judge, January 19, 1913.
The Morrill Land Grant Colleges, by Irving N. Brant, January 19, 1913.
History of Des Moines College, by Eugene Parsons, January 26, 1913.
Oldest Pioneer Family in Story County, January 26, 1913.
History of the Iowa Pension Agency, February 2, 1913.
Luther Kreigh Helped Build Early Railroads, February 2, 1913.
Last Vestige of Kanesville Torn Down, February 2, 1913.
Mystery of Painted Rock in Clayton County, February 2, 1913.
The $3,000 Indian Book, by Johnson Brigham, February 2, 1913.
Thrilling Escape of Iowa Soldiers and Rescue at Sea in War Times, February 9, 1913.
Grave of Founder of Mt. Pleasant, February 9, 1913.
Pioneer Publicity Was Big Success, by H. M. Harwood, February 9, 1913.
Blizzards of Pioneer Iowa Recalled, by Ira A. Williams, February 23, 1913.
"Tama Jim" Wilson Home After Sixteen Years at Washington, March 2, 1913.

The Charge at Donelson, by J. B. Weaver, February 15, 1913.
Something About Some of the Old Newspapers of the State, February 16, 1913.
Stephen V. Hoyt, a Lincoln Republican, March 2, 1913.
First Reaper in Wayne County, Iowa, March 2, 1913.
Map of Iowa in 1850, March 2, 1913.
Leslie M. Shaw's Views of Finance, March 9, 1913.
A Chapter of County History, by C. W. Von Coelin, March 16, 1913.
Romance in Development of the Water Power Along the Iowa, March 16, 1913.
Kossuth County's Efforts to Divide Itself, March 23, 1913.

The Burlington Hawk-Eye

In Old Burlington. (In each Sunday issue.)
Chronology of the Year 1912 in Burlington, January 5, 1913.
Sketch of Life of Henry M. Springer, February 16, 1913.
The North, South, Constitution and the Union, by J. H. Tedford, February 23, 1913.
Charles Carter Hasty, A Washington County Pioneer, February 23, 1913.
Railroading in the United States as it Was a Half Century Ago, March 2, 1913.
War Time Reminiscences, by W. P. Elliott, March 2, 1913.
The Life and Character of E. H. Hubbard, March 2, 1913.

HISTORICAL SOCIETIES

PUBLICATIONS

An article on *Distinguished Guests and Residents of Medford,* by Eliza M. Gill, is the leading contribution in the January number of *The Medford Historical Register.*

Seward and the Declaration of Paris is the title of an address by Charles Francis Adams which has been reprinted in pamphlet form from the *Proceedings of the Massachusetts Historical Society.*

The October-December number of the *Quarterly Publication of the Historical and Philosophical Society of Ohio* is devoted to the annual reports of the officers of the Society for the year ending December 2, 1912.

Early Chapters in the Development of the Potomac Route to the West, by Corra Bacon Foster, is a volume of nearly three hundred pages published by the Columbia Historical Society at Washington, D. C., which is of interest and value to students of the westward movement of the American people.

The Historical Collections of the Essex Institute for January opens with a *Diary for the Year 1759 Kept by Samuel Gardner of Salem.* Among the other contributions are some *Old Norfolk County Deeds, 1671–1689,* and a continuation of the description of *A Genealogical-Historical Visitation of Andover, Mass., in the Year 1863,* by Alfred Poore.

The Register of the Kentucky State Historical Society for January opens with a chapter from Otto A. Rothert's forthcoming *History of Muhlenberg County, Kentucky,* dealing with the career of General John Peter Gabriel Muhlenberg. A. C. Quisenberry writes a sketch which is headed *A Hundred Years Ago — "The River Raisin".* George Baber is the writer of an article on *Kentucky, A Land of Heroism, Eloquence, Statesmanship and Letters,* and of a brief sketch on *The Battle of Chickamauga.*

Ponce de Leon's Patents for Colonization, by L. D. Scisco; *The Vaults in St. John's Churchyard,* by William J. Lallou; and a number of letters and documents relative to *The Church of the Holy Trinity, Philadelphia,* compiled by the late Martin I. J. Griffin, are contributions which make up the contents of the December number of the *Records of the American Catholic Historical Society.*

F. A. Sampson presents a brief outline of the plans and activities of *The State Historical Society of Missouri* in the opening pages of the *Missouri Historical Review* for January. Other contributions are: *The Story of the Civil War in Northeast Missouri,* by Floyd C. Shoemaker; *History of Missouri Baptist General Association,* by E. W. Stephens; *What I Saw at Wilson's Creek,* by Joseph A. Mudd; and *Vanbibber Tavern,* by Huron Burt.

Three contributions make up the contents of the *Journal of the Presbyterian Historical Society* for December, namely: *The Writings of the Rev. John Philip Boehm, Founder of the Reformed Church in Pennsylvania,* translated and edited by William J. Hinke; part two of the *History of the Presbytery of New Brunswick,* by George H. Ingram; and *Some Facts Pertaining to the Tabernacle Presbyterian Church of Philadelphia,* by John Edmands.

The excerpt from *The Randolph Manuscript* printed in the January number of *The Virginia Magazine of History and Biography* is a continuation of the commission and instructions issued to the Earl of Orkney for the government of Virginia. Lyman Chalkley contributes some *Revolutionary Pension Declarations* from the records of Augusta County, Virginia. Under the heading of *Virginia in 1666–1667* may be found, among other things, a description of the government of the colony of Virginia.

Volume fourteen of the *Collections of the Connecticut Historical Society* is devoted entirely to the record of the *Original Distribution of the Lands in Hartford among the Settlers, 1639,* edited by Albert C. Bates. The amount of land received by each settler, according to an agreement entered into on January 3, 1639, varied from six to one hundred and sixty acres, while tracts of from three to six acres were granted to certain settlers who were known as proprietors by courtesy.

Volume six of the *Publications of the Louisiana Historical Society* is a centennial number devoted to the proceedings at the celebration of the one hundredth anniversary of the admission of Louisiana into the Union. There are addresses by Governor Jared Y. Sanders of Louisiana, Mayor Martin Behrman of New Orleans, Secretary of State Philander C. Knox, Governor Earl Brewer of Mississippi, Professor Alcée Fortier, and others, and a number of interesting toasts offered at the banquet which closed the day's celebration.

The *Exploration of the Upper Columbia* is reviewed in a brief article by O. B. Sperlin, which appears in the January number of *The Washington Historical Quarterly*. Leo Jones presents a short study of *Proposed Amendments to the State Constitution of Washington*. Allen Weir is the writer of a biographical sketch of *William Weir*. Finally, there is a list of *The Pioneer Dead of 1912*, prepared by Thomas W. Prosch. In the *Reprint Department* there is a continuation of George Wilkes's *History of Oregon*, originally published in New York in 1845.

The monograph on *The Political Activities of the Baptists and Fifth Monarchy Men in England During the Interregnum*, by Louise Fargo Brown, which won the Herbert Baxter Adams Prize in European History for 1911, has been published by the American Historical Association in the series of *Prize Essays*. The seven chapters are devoted, respectively, to Baptists and Fifth monarchy men, government by the saints, the protector and the saints, saints in prison and out of prison, kingdom building, Ireland and the protectorate, and overturning.

In the opening pages of the *Maryland Historical Magazine* for December may be found a continuation of the *Letters of Rev. Jonathan Boucher*. Then follows *A Diary of a Baltimorean of the Eighteenth Century*, edited by Samuel Claggett Chew, in which are recorded the events and impressions of visits to England and France made by Thomas Parkin in 1794 and 1795. Under the heading of *Defence of Baltimore, 1814*, may be found some letters written by James Piper. There is a continuation of *Land Notes 1634–1655*, and a biographical sketch of *Isaac Briggs*, by Ella Kent Barnard.

Volume thirty-two of the *Archives of Maryland,* published by the Maryland Historical Society, contains the *Proceedings of the Council of Maryland, April 15, 1761–September 24, 1770,* edited by William Hand Browne. This period covers the last years of the governorship of Horatio Sharpe and the first year of the governorship of Robert Eden, the record of the remainder of the latter's administration having been lost. The volume also contains the minutes of the Board of Revenue of Maryland from 1768 to 1775, and the orders and instructions to Governor Robert Eden in 1773.

Among the articles to be found in the *Records of the Past* for November-December are: *The Old City of Lincoln,* by Adelaide Curtiss; *The Cayuga Chief, Doctor Peter Wilson,* by Grace Ellis Taft; *The Logan Elm,* by George Frederick Wright; *Notes on the Mixteca,* by L. N. Forsyth; and *The XIX International Congress of Americanists, 1914,* by Ales Hrdlicka. In the January-February number Florence B. Wright discusses *The Lost Towns of the Yorkshire Coast,* and Arthur C. Parker presents a brief outline of the *Work of the Anthropological Section in the New York State Museum.*

Among the papers in the sixteenth volume of the *Collections of the Nova Scotia Historical Society* are the following: *Memoir, Lieut.-Governor Michael Franklin, 1752–1782,* by James S. Macdonald; *The Trent Affair,* by George Johnson; *James William Johnston, First Premier of Nova Scotia Under Responsible Government,* by John Y. Payzant; *Notes Historical and Otherwise of the Northern District of Queens County,* by R. R. McLeod; *History of St. Matthew's Church, Halifax, N. S.,* by Walter C. Murray; and *Early Reminiscences of Halifax — Men Who Have Passed from Us,* by Peter Lynch.

Volume six, part two of the *Historical Records and Studies,* edited by Charles George Herbermann and published by the United States Catholic Historical Society, contains a number of interesting contributions. Among them may be mentioned: *John Cardinal Farley,* by P. J. Hayes; *Some Catholic Names in the United States Navy List,* by John Furey; *Very Reverend Pierre Gibault, V. G.,* by Charles George Herbermann and Henry F.

Herbermann; *New York's First Irish Emigrant Society,* by Thomas F. Meehan; *Bibliography of John Gilmary Shea,* by Edward Spillane; and a review of the third volume of Campbell's *Pioneer Priests of North America,* by Charles George Herbermann.

A report of *The Joint State Assembly at Manitowoc and Two Rivers, August 23–24, 1912,* by Charles E. Brown, appears in *The Wisconsin Archeologist* for January. Included in the report are the following papers which were read at the meeting: *The Work of Local Historical Societies,* by Ralph H. Plumb; *The National Preservation of Prehistoric Monuments,* by J. O. Kinnaman; and an address by Louis Falge which dealt with the early Indian history of the Old Northwest. Other contributions in this number of the periodical are: *Trempealeau, Vernon and Crawford County Notes,* by Towne L. Miller; *Potato Lake, Rusk County Mounds,* by W. H. Bailey; and *La Crosse and Monroe County Notes,* by Charles E. Brown.

In the opening pages of *The Southwestern Historical Quarterly* for January there is an article on *The Question of the Eastern Boundary of California in the Convention of 1849,* by Cardinal Goodwin. Then follows a second installment of Charles Wilson Hackett's monograph on *The Retreat of the Spaniards from New Mexico in 1680, and the Beginnings of El Paso.* In a brief sketch, entitled *Virginia and the Independence of Texas,* James E. Winston discusses the part played by Virginians in accomplishing the separation of Texas from Mexico. Adele B. Looscan presents a biographical sketch of *Dugald McFarlane,* a Scotchman who was among the pioneers of Texas. The fifth installment of *Correspondence from the British Archives Concerning Texas, 1837–1846,* edited by Ephraim Douglass Adams, contains letters written chiefly between April 25th and the last of May, 1843, by Lord Aberdeen, Charles Elliot, Sam Houston, and others. Under the heading of *Notes and Fragments* may be found some data relative to *The Whereabouts of Sam Houston in 1834.*

In an article on *Changes of Climate and History,* which appears in the January number of *The American Historical Review,* Ellsworth Huntington argues for the theory of "pulsatory" or com-

paratively rapid changes in climate as opposed to the theory of gradual changes; the theory that in a given region there have been periods of marked dryness and periods of marked moisture rather than a regular evolution in climate in the course of the centuries. The relation of climate to the history of nations, according to this theory, is pointed out by a number of illustrations. Tenney Frank discusses *Mercantilism and Rome's Foreign Policy;* William Thomas Laprade writes on *William Pitt and Westminster Elections;* and George L. Rives presents a survey of *Mexican Diplomacy on the Eve of War with the United States.* Finally, there is a discussion of *The Question of Arming the Slaves,* from the standpoint of the Confederate government, written by N. W. Stephenson. Under the heading of *Documents* there may be found an installment of *Correspondence of the Russian Ministers in Washington, 1818–1825.*

The greater part of the *Ohio Archaeological and Historical Quarterly* for January is devoted to the proceedings of the fifth annual meeting of the Ohio Valley Historical Association at Pittsburgh, October 30 to November 1, 1911, at which time the centennial anniversary of the beginning of steam navigation on the western waters was celebrated. Among the papers read at the meeting are: *The Influence of the Ohio River in Western Expansion,* by Edwin Erle Sparks; *Washington, Pittsburgh and Inland Navigation,* by Professor Dyess; *Constructing a Navigation System in the West,* by H. Dora Stecker; *The Pittsburgh-Wheeling Rivalry for Commercial Headship on the Ohio,* by James Morton Callahan; *Ship and Brig Building on the Ohio and Its Tributaries,* by Richard T. Wiley; *Pittsburgh: A Key to the West During the American Revolution,* by James Alton James; *The Future of Navigation on Our Western Rivers,* by Albert Bettinger; *American Interests in the Pacific,* by Homer B. Hulbert; and *The Relation of New England to the Ohio Valley,* by Carl Russell Fish. The remaining pages of this number of the *Quarterly* are taken up with *The Autobiography of Thomas Ewing,* edited by Clement L. Martzolff.

Robert F. Gilder discusses some archaeological finds and investigations in an article entitled *Prehistoric Village Sites of Harrison County, Iowa,* which appears in the belated July, 1912, number of

the *Annals of Iowa.* Loren S. Tyler describes *The Tyler Photographs of Iowa Military Men,* which, as the list indicates, is a remarkable collection. The *Aboriginal Use of Mineral Coal and Its Discovery in the West* is the subject of a brief sketch by Charles R. Keyes. In the series of articles on *Prominent Men of Early Iowa,* Edward H. Stiles discusses the career of Thomas S. Wilson, Associate Justice of the Supreme Court of the Territory of Iowa and a well-known figure in Iowa politics during the early years of statehood. Finally, under the heading of *Dr. Galland's Account of the Half-Breed Tract* may be found some extracts from the *Iowa Advocate and Half-Breed Journal* published by Isaac Galland, beginning in August, 1847. The October number of the *Annals* is occupied chiefly with an interesting account of the *Pioneer History of the Territorial and State Library of Iowa,* by Johnson Brigham. In addition there is an article on *Spanish Mines: An Episode in Primitive American Lead-Mining,* by Charles R. Keyes.

ACTIVITIES

The sixth annual meeting of the Mississippi Valley Historical Association will be held at Omaha, Nebraska, on May 8–10, 1913.

An organization which will no doubt be often confused with the American Historical Association is one named the American History Society, recently formed, with headquarters in New York City.

The Hakluyt Society has come into the possession of a number of valuable documents relative to the voyage of Francis Drake along the Pacific coast in 1579, discovered in the Mexican Archives by Mrs. Zelia Nuttall. The documents will be published by the Society.

The biennial report of the State Historical Society of Missouri indicates that the two years ending December 31, 1912, have been years of progress and expansion in the affairs of the Society. More room has been acquired for the collections, nearly five thousand books and a large number of pamphlets have been added to the library, and the membership has been creditably increased. The budget for the coming biennium calls for about nineteen thousand dollars, and the need of a new fireproof historical building is strongly emphasized.

At the regular monthly meeting of the Maryland Historical Society on December 9, 1912, Mr. Mendes Cohen, who for many years has been the President of the Society, requested that his name be not again presented in nomination for the office. At the same time he strongly recommended the thorough reorganization of the Society, a task which he felt should be assigned to a younger man.

The Jefferson County Historical Society held its annual meeting at Fairfield on February 5, 1913, and the following officers were chosen for the ensuing year: T. L. James, President; R. W. Lamson, Vice President; Hiram Heaton, Secretary; C. W. Cage, Treasurer; and J. W. McLean, Historian. The Society voted to hold its regular meetings quarterly, instead of monthly, hereafter, and a committee was appointed to investigate the matter of placing a monument on the site in Fairfield where the first State fair in Iowa was held.

The Marshall County Historical Society held its annual meeting on March 18, 1913. The following officers were elected: Mrs. H. J. Howe, President; Mrs. May F. Montgomery, Vice President; Mrs. Maude Battis, Recording Secretary; Dr. Cora Williams Choate, Treasurer; Robert W. Stevens, Curator; and Mrs. L. C. Abbott, C. F. Schmidt, Miss Minnie Russell, and A. Palmer, members of the Board of Directors. The membership of the Society now numbers about one hundred. An effort is being made to secure a room in the Court House in which to preserve the relics and other collections of the Society.

The tenth annual meeting of the Madison County Historical Society was held at Winterset on March 18, 1913. Mr. Edgar R. Harlan delivered an address on *The Mormon Trail Across Iowa;* and there were biographical sketches of M. L. McPherson, by Judge Smith McPherson, and of Judge John A. Pitzer, by E. R. Zeller. The election of officers resulted as follows: President, H. A. Mueller; Vice President, William Brinson; Secretary-Treasurer, E. R. Zeller; Board of Directors, J. J. Gaston, Henry Hawk, Laura J. Miller, J. W. Leinard, and William Gentry. A committee was appointed to endeavor to raise money for the purchase of an old log cabin.

THE STATE HISTORICAL SOCIETY OF IOWA

A new handbook containing a description of the scope and activities of The State Historical Society of Iowa, together with a list of members, has been issued.

Mr. George W. Hanna of Lu Verne, a member of the Society, is the writer of some interesting *Reminiscences of Some of Waterloo's Pioneers* which appeared in the *Waterloo Evening Courier* in the so-called "Improvement Number" for 1912.

Dr. John C. Parish of Denver, Colorado, who is the author of three of the volumes in the *Iowa Biographical Series* and was for several years Assistant Editor in The State Historical Society of Iowa, spent a week at Iowa City early in March. On March 11th he led the discussion at a Conference-Seminar held in the rooms of the Society, his subject being "Research and Interpretation". Dr. Parish is at present devoting his time to historical writing, dealing with the period of French exploration in the Mississippi Valley.

The following persons have recently been elected to membership in the Society: Mr. Fred Biermann, Decorah, Iowa; Mr. Benj. J. Ricker, Grinnell, Iowa; Mr. W. H. Thomson, Jr., Des Moines, Iowa; Mr. L. H. Brown, Creston, Iowa; Mr. Henry O. Bernbrock, Waterloo, Iowa; Mr. L. L. Caldwell, Parkersburg, Iowa; Mr. E. W. Clark, Mason City, Iowa; Mr. Lee Elwood, Elma, Iowa; Mr. F. P. Hageman, Waverly, Iowa; Mr. Geo. W. Hanna, LuVerne, Iowa; Mr. Henry W. Dunn, Iowa City, Iowa; Mr. George McLean, Dubuque, Iowa; Miss Louise Hughes, Strasburger, Nebraska; and Mr. L. B. Carlisle, Union, Iowa. Mr. C. D. Cass, Waterloo, Iowa, was elected to life membership.

NOTES AND COMMENT

A memorial fountain will be erected in Jackson Park in Dubuque in honor of the late Judge B. W. Lacy.

Mrs. Irene Thomas, said to have been the last survivor of the Spirit Lake Massacre of 1857, recently died at Munden, Kansas.

The fourteenth biennial meeting of the Pioneer Lawmakers' Association of Iowa was held at Des Moines on March 19 and 20, 1913.

The American Society for Judicial Settlement of International Disputes held its third annual conference at Washington, D. C. in December, 1912.

The Des Moines Pioneers met at the Chamberlain Hotel in Des Moines early in January. Mr. James B. Weaver, Jr., delivered an address dealing with the early settlers of Keosauqua, Iowa.

Charles W. Eliot, W. D. Foulke, and Charles J. Bonaparte were among the speakers at the thirty-second annual meeting of the National Civil Service Reform League at Milwaukee in December.

The afternoon of March 20th was set aside by the General Assembly of Iowa for memorial exercises in commemoration of the late William Larrabee. The principal address was made by Senator William S. Kenyon.

An Allison-Henderson Memorial Association has been formed at Dubuque and a fund of ten thousand dollars has been raised for the purpose of erecting some suitable memorial to the two distinguished statesmen who once lived in Dubuque.

The Camp McClellan Association of Davenport held its annual meeting on March 17th, and elected the following officers: A. F. Dawson, President; F. A. Waugh, Vice President; and J. F. Yost, Secretary-Treasurer. The Association plans to mark the spot within the city of Davenport where Pike camped while on his exploration

of the Mississippi, the site of the old Indian burying ground, and the place where the barracks stood during the Civil War.

An evidence of the spread and growth of the commission government idea is to be found in the fact that during 1912 thirty-five cities in all sections of the United States adopted the plan, among them being Pasadena, California; Boise, Idaho; Sheffield, Alabama; St. Paul, Minnesota; Atlantic City, New Jersey; Lincoln, Nebraska; New Orleans, Louisiana; and Everett, Washington. During 1912 the commission plan was rejected in eight cities.

CONTRIBUTORS

FRED EMORY HAYNES, Professor of Economics and Sociology at Morningside College, Sioux City, Iowa. Born near Boston, Massachusetts in 1868. Graduated from Harvard University in 1889. Received the degree of M. A. in 1890 and of Ph. D. in 1891 at Harvard University. Studied in Germany and England, 1891–1892. Instructor in History at the University of California, 1892–1895. Assistant in History at Harvard University, 1896–1897. Engaged in settlement work in Boston, 1895–1900. Author of *The Reciprocity Treaty of 1854 with Canada;* and *The New Sectionalism;* and two chapters in *The City Wilderness,* edited by R. A. Woods.

CLIFFORD POWELL, General Assistant in The State Historical Society of Iowa. Born at Elliott, Iowa, on December 14, 1887. Graduated from the Red Oak High School in 1906 and from the College of Liberal Arts of the State University of Iowa in 1910. Received the degree of M. A. in 1912 from the State University of Iowa. Author of *The Contributions of Albert Miller Lea to the Literature of Iowa History.* Winner of the Colonial Dames Prize for the best essay on Iowa history in 1909.

JACOB VAN DER ZEE, Research Associate in The State Historical Society of Iowa. (See THE IOWA JOURNAL OF HISTORY AND POLITICS for January, 1913, p. 142.)

THOMAS JULIAN BRYANT, Member of The State Historical Society of Iowa. Member of the State Historical Society of Missouri. Born April 27, 1873, at Ashgrove, Iowa. Graduated from the Southern Iowa Normal at Bloomfield in 1892, with the degree of B. S. Graduated from the Law Department of Drake University in 1896. Author of *A War Time Militia Company;* and an article on *Daniel Boone.*

THE STATE HISTORICAL SOCIETY OF IOWA

ESTABLISHED BY LAW IN THE YEAR 1857
INCORPORATED: 1867 AND 1892
LOCATED AT IOWA CITY IOWA

FORMER PRESIDENTS

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S. J. KIRKWOOD
F. H. LEE
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M. J. MORSMAN
WILLIAM G. HAMMOND
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BENJAMIN F. SHAMBAUGH.....SUPERINTENDENT

EUCLID SANDERS.....PRESIDENT
PAUL A. KORAB.....TREASURER
FRANK E. HORACK.....SECRETARY

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CONTENTS

History Made by Plain Men . . . LOUIS PELZER 307

Episodes in the Early History of the Western Iowa Country
JACOB VAN DER ZEE 323

History of the Codes of Iowa Law. V—The Code of 1897
CLIFFORD POWELL 364

Some Publications 444

Americana—General and Miscellaneous 446

Western 452

Iowana 455

Historical Societies 461

Notes and Comment 471

Contributors 474

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THE IOWA JOURNAL OF HISTORY AND POLITICS

JULY NINETEEN HUNDRED THIRTEEN

VOLUME ELEVEN NUMBER THREE

HISTORY MADE BY PLAIN MEN

During the comparatively short era of man's recorded history his story has been told from various view-points: some writers have approached the subject with the conviction that Religion is the key to History; another insists that civilization has moved along with the drum and the trumpet; a third that the State is the great central fact in history, agreeing with Freeman that history is past politics; Mr. Seligman has written on the economic interpretation of history;[1] while others have emphasized the biographical element — the Alexanders, the Charlemagnes, the Bismarcks, or the Gladstones.

This paper is an attempt to examine another force which permeates all the others, which is less tangible but omnipresent. This is the part played by Plain Men — those individuals not endowed with greatness or with power, whose spheres of operation are small and whose careers are not perpetuated in marble, in the national archives, or in the sifted products of historical study.

Hero-worship is a part of our moral nature which impels us to render our tributes of admiration and praise to those famous processions of statesmen, priests, poets, soldiers, and inventors that have passed by and on. Their achievements survive them in the laws, the morals, or the institutions which they were conspicuous in establishing or adorning. Pageants, holidays, celebrations, and monuments reveal this trait which is one of the qualities which makes for a noble personal or national welfare.[2]

[1] Seligman's *The Economic Interpretation of History* in the *Political Science Quarterly,* Vol. XVI, p. 612.

[2] Storrs's *Contributions made to our National Development by Plain Men* in the *Annual Report of the American Historical Association,* 1896, Vol. I, pp. 37–63.

Interest in great men would alone be sufficient to perpetuate their names. Their thoughts, deeds, and example are such as to inspire, long after the actor has passed away. Of Admiral Nelson Mr. Robert Southey has said:[3] "He has left us . . . . a name and an example, which are at this hour inspiring hundreds of the youth of England: a name which is our pride, and an example which will continue to be our shield and our strength. Thus it is that the spirits of the great and the wise continue to live and to act after them: verifying, in this sense, the language of the old mythologist:

> 'For gods they are, through high Jove's counsels good,
> Haunting the earth, the guardians of mankind.' "

Hence let no one attempt to disparage the achievements of those personages who have been in the fore of achievement nor to take from them the credit which is justly theirs. "Great men," Carlyle has said, "taken up in any way are profitable company."

But beyond question our homage and recognition should not stop here but should extend likewise to the quiet, unadorned and oft unheralded achievements of that unnumbered, unnamed army of world's workers designated here as Plain Men. These with fewer opportunities and with feebler powers have labored with industry, patience, and not infrequently with great effect in advancing the world's progress.

The mighty currents of history are after all formed by the great body of the people. The movers of the world are not Atlas and Archimedes but the units of mankind. The good rulers influence the varied interests of society somewhat as the mountains give direction to the wind. Statesmen, generals, priests, and rulers — these are the creatures

[3] Southey's *The Life of Nelson,* p. 326. Edited by David Hannay. London: William Heinemann, 1897.

rather than the creators of civilization.[4] Gladstone represents England; Napoleon, France; Luther is Germany, and Illinois gave us Abraham Lincoln.

Perhaps the most striking trait of the modern scientific method, suggests a modern historian, is an appreciation of the transcendent importance of the small, the inconspicuous, and the obscure. The historians of the old school neither saw nor had any interest in the common routine and humdrum of daily life. They were attracted to parliaments, kings, wars, treaties, territorial changes, and nobles rather than to the great mass of the plain people — how they lived, what they thought, how they worked and how their infinite number of units furnished the momentum for progress.

With these historians, continues this writer, "It was the startling and exceptional that caught their attention and which they found recorded in the sources on which they depended. They were like a geologist who should deal only with earthquakes and volcanoes, or, better still, a zoölogist, who should have no use for anything smaller than an elephant or less romantic in its habits than a phoenix or basilisk."[5]

Less calmly but perhaps more picturesquely another writer has stated it:

> But a little while ago it was assumed that a nation which had not waded through centuries of blood had no history. To our more refined sensibilities, pictures of battle-field agonies, catalogues of death wounds, and barbarous atrocities are less congenial — I will not say less profitable — than to the ruder tastes of Homer's listeners or to the lover of King Arthur romances. Narratives of sieges and battles, of the discipline and movement of armies, and of international diplomacies; biographies of ministers and generals, the idiosyncracies of great men; pictures of court intrigues, dainty morsels of court scandals, recitations of the sayings of imbecile

[4] Cf. Bancroft's *Essays and Miscellany,* Chapter V.

[5] Robinson's *The New History,* pp. 48, 49.

monarchs, anecdotes of princes, the opinions of counsellors, or the tortuous ways of political factions — these are not all of history.[6]

Political institutions, rebellions, and crusades are but the more visible manifestations of the undercurrents of racial, economic, and religious forces. The forces of history-making are less tangible and more complex than are those in the physical world, and, since formation and progress are through individual units, social evolution is slow. The French Revolution was but the spectacular outburst of forces which were deep-seated, slow, and of long duration in the social structure of the common people of France. "Forms of government may be radically changed," says a writer in *Science,* "but the alignment of classes, subordination, legal traditions, religious, ethical and social ideals still remain inevitably to nullify or to modify the results of the newly-made structure of government."[7]

Such a conception of history — as a study of the social physics of the past — would record the progress as well as the doings of man, and would rescue the achievements and the memoirs of the "not-great" from their undue subordination to the abnormal, the unusual, and the picturesque.

In the career of Gurdon Saltonstall Hubbard is reflected a segment of the fur-trading era in Illinois.[8] For about fifteen years this man was an Indian trader. Trading houses were established; trails were laid out; the good will and friendship of the Indians were cultivated; vast quantities of blankets, powder, whiskey, and tobacco were dis-

[6] Bancroft's *Essays and Miscellany,* p. 79.

[7] Carleton's *History-making Forces* in the *Popular Science Monthly,* Vol. LXXI, pp. 349–354.

[8] This story of the fur-trading activities of Hubbard has been constructed from *The Autobiography of Gurdon Saltonstall Hubbard* which has been edited with an introduction by Miss Caroline M. McIlvaine, the Librarian of the Chicago Historical Society.

tributed, and in return the furs of mink, beaver, muskrat, fox, ermine, and lynx were bartered, canoed and portaged to Mackinaw, the great mart of the Upper Lakes fur trade and the headquarters of the American Fur Company. To follow and to witness some of the activities of this man's career as an Indian trader, may reveal a cross-sectional view of a vast business of the early Middle West.

Born in old Vermont in 1802 and entering the service of the American Fur Company at the age of sixteen, Hubbard illustrated the old saying that "Vermont is the most glorious spot on the face of this globe for a man to be born-in, *provided* he emigrates when he is very young."[9] Near Montreal, Canada, Hubbard joined the clerks, boatmen, and hunters of the company, and on May 13, 1818, with canoes heavily laden with goods for the Indian trade and to the melodies of Canadian boat songs the expedition began its ascent of the St. Lawrence.

Toronto was reached in about a month. From there the boats were hauled overland in ox-carts to Lake Simcoe and the journey then continued in canoes to Lake Huron. Coasting the northern shore of this great lake the canoes on July 4, 1818, arrived at Mackinaw. Here young Hubbard first saw the hosts of voyageurs, clerks, merchants, and officials of that mammoth corporation, the American Fur Company.

For a month Hubbard worked at counting great quantities of skins of mink, raccoon, wild cat, fox, and lynx, which had been collected by hundreds of traders and hunters from the vast area of the Great Lakes region. Hunting and trading expeditions soon set out for their winter quest for furs and young Hubbard was placed in a brigade destined for the upper part of Illinois.

This brigade of twelve boats left Mackinaw on September 30, 1818, and skirted the eastern shore of Lake Michigan in

[9] Quoted in Johnson's *Stephen A. Douglas: A Study in American Politics*, p. 3.

a southerly direction. In three weeks Hubbard beheld Fort Dearborn. Here for a few days the boatmen rested; boats and canoes were repaired; and preparations for the southward journey were made.

As the expedition resumed its southerly course trading houses were established. The first was located near the present city of Hennepin and the next three miles below Lake Peoria. Paddling down the Illinois River and establishing posts every sixty miles on that stream the crew reached St. Louis on November 6, 1818. Here for two weeks Hubbard visited with relatives and friends and helped to stock the canoes with goods for the Indian trade in Illinois.

Hubbard had been placed in charge of the trading house near the mouth of the Bureau River. Here with a band of companion hunters he spent the winter of 1818–1819 and lived upon raccoon, bear, turkey, swan, goose, crane, and duck. Packs of Indian goods were sent to the Sacs on Rock River and to the Kickapoos on the Wabash and bartered for the rich peltries of these regions. Hunting trips also added to the stores of furs in the trading house.

In March, 1819, Hubbard's crew commenced its toilsome return journey to Mackinaw. Laden with the rich products of the season's trading and hunting and manned by veteran oarsmen the canoes were paddled and portaged toward the Mecca of the fur traders. Other outfits from the St. Joseph and the Calumet rivers joined the procession of boats which were given a hearty welcome when they arrived at Mackinaw in May, 1819.

For five or six weeks Hubbard with about a hundred others packed furs at Mackinaw. Dust and moths were removed from the skins, which were then counted, stretched, pressed, sorted, and invoiced. Then the neatly packed bundles of otter, mink, beaver, bear, or wolverine were

transferred to boats destined for the fur markets of the East and of Europe.

The next season Hubbard spent at the trading and hunting grounds on the Muskegon River in Michigan, from whence another cargo of peltries was sent to Mackinaw. In the following season he exploited the area of the Kalamazoo River Valley, being accompanied by three Canadians and one Indian.

Thus Hubbard spent winter after winter in the forests and on the streams, and at every spring returned to discharge his cargo at Mackinaw. For some time the Indians had known him as Pa-pa-ma-ta-be or the "Swift Walker". In 1824 he was given the general superintendence over the trading houses of the American Fur Company on the Illinois River.

Between Fort Dearborn and a point about one hundred and fifty miles south of the present town of Danville he laid out a path or road known as "Hubbard's Trail". On this route he established trading houses forty or fifty miles apart. To these posts goods for the Indian trade were carried from Fort Dearborn by pack horses and thus the slow and laborious transportation by boat was discontinued.

Annual visits to Mackinaw continued and during his career as a fur-trader his total number of trips to that point amounted to twenty-six. In 1827 he was made a special partner of the American Fur Company and in the next year bought out its entire interests in Illinois. For about five more years he prospered in the business of trading with the Indian tribes. But, after the disastrous defeat of the Sacs and Winnebagoes in the Black Hawk War in 1832, the Indians were forced to withdraw from Illinois to the reservations beyond the Mississippi. This event marks the end of the fur traffic in Illinois.

Hubbard's career, thus described, spans in the main the transition era from fur-trading to agriculture in Illinois, and exhibits the last stages of this primitive form of barter. Furthermore, his activities typify the initiative, the aggressiveness, and the efficiency of the American Fur Company in its control of the Indian trade on a large scale.

"Just what the American Fur Company meant to Illinois", declares a student of Hubbard's career, "it is difficult for us of the present to realize. But when we reflect that the few white settlements sprinkled here and there in the wilderness would have been practically out of touch with the world save for the river traffic carried on by this first of American 'trusts,' and when we remember that the Indians were held in check not so much by force as by the self-interest of trade, we conceive its import to our forebears, not merely from the trade standpoint, but from the human side as well."[10]

Few people have ever heard of Gershom Flagg, a pioneer of Illinois, whose career illustrates one of the currents of westward migration from New England in the forepart of the last century.[11] These streams of migration starting from the eastern seaboard regions widened and overflowed into the valleys of the Ohio, the Wabash, the Illinois, and the Mississippi. Gershom Flagg never won a battle, nor wrote a statute, nor sat in the Senate nor ran for President of the United States. Nevertheless, in the migration and settlement by this man there is typified that westerning expansion which made possible the construction of high-

10 Quoted from Miss McIlvaine's introduction to *The Autobiography of Gurdon Saltonstall Hubbard,* p. xi.

11 For the materials from which this story of Gershom Flagg has been constructed the writer is indebted to the *Pioneer Letters of Gershom Flagg.* These *Letters* are skillfully edited, with introduction and notes, by Dr. Solon J. Buck of the University of Illinois and are published in the *Transactions of the Illinois State Historical Society,* 1910, pp. 139–183.

ways, the building of churches and schools, and the founding of American homes and Commonwealths. It will repay, it is believed, a few minutes time to associate with such a man who was a participant, an observer, and a describer.

Eight hundred and ninety-eight miles were covered by this youth of twenty-four in the fall of 1816 in the first section of his migration from Richland, Vermont, to Springfield, Ohio. Reaching Troy, New York, Flagg and his companion passed the old Dutch settlement of Schenectady and soon reached Utica. From the thirteen-year-old village of Rochester their road led to Niagara Falls, Buffalo, and then along the lake to the port of Erie. Pennsylvania was crossed; and in Ohio the villages of Cadiz, Cambridge, Zanesville, Lancaster, Columbus, and Urbana marked their route. The trip had taken forty-seven days at the rate of nineteen miles per day and Flagg explained, "We came a roundabout way I suppose but I think we took the best road."

Here in Champaign County, Ohio, Flagg remained for several months. Families of emigrants were arriving from New York, Vermont, and other States, penniless and without grain for their worn-out horses. "I believe Many people who come to this Country are greatly disappointed", he writes in one of his letters to Vermont. Hardships and high prices were inducing not a few families to move on to Indiana or Missouri. "The good thing[s] in this Country", he wrote, "are Plenty of Grain which makes large fat horses and Cattle Rich Land ready cleared, some Whiskey plenty of feed for Cattle, Plumbs, Peaches, Mellons, Deer, Wild turkies, Ducks, Rabits, quails, &c &c &c, little more Corn. The bad things are, Want of Stone, Want of timber for building, Bad Water, which will not Wash . . . . Bad Roads, ignorant people, Sick Milk, Sick Wheat, a plenty of Ague near the large streams Bad situation as to trade."

Again young Flagg looked to the westward from whence came reports of land surveys and sales, speculation, the founding of towns, and mineral riches. Describing the stimulation from these rumors, he wrote to his mother in Vermont in February of 1818: "the Missouri & Illinois feever Rages greatly in Ohio, Kentucky, & Tennessee and carries off thousand[s]. When I got to Ohio my Ohio feever began to turn but I soon caught the Missouri feever which is very catchin and carried me off."

In the summer of 1817 Flagg travelled the seventy-five miles from Springfield to Cincinnati. The Queen of the West was then a growing city of over 7000. Observing that the government land upon the Wabash was taken up and that the other Indiana lands were still held by the tribes of Indians, he decided to go on to St. Louis. In partnership with another young Vermonter he next purchased a flat-boat which they covered and stocked with provisions. Leaving the bustling city of Cincinnati on October 19, 1817, the boat floated down the Ohio River, past the Falls of the Ohio and the mouth of the Wabash, and reached Cairo — a distance of 645 miles from Cincinnati by water. Placing the chests and trunks on a keel-boat bound for St. Louis the two men covered the remaining distance of 174 miles on foot and reached that city on November 19, 1817.

St. Louis, this young pioneer found, was a place of thriving business activity. Brick and frame houses were being constructed; printing offices, banks, and a steam sawmill were in operation; corn, wheat, potatoes, beef, lumber, and brick were selling at high prices; labor was $20 per month; board was $3.50 to $6.00 per week and town lots were selling from $500 to $3000 each.

Twenty-six miles east of St. Louis Flagg located 264 acres of land near what is now Edwardsville in the county of Madison, Illinois. Returning to the flourishing land

market at St. Louis, he was unable to secure employment as a government land surveyor. In the previous winter (1816–1817) eighty surveying companies had monopolized this business and had surveyed several millions of acres. Furthermore, Flagg complained that the "Surveyor General has three or four Brothers with 15 or 20 other connection all surveyors."

Here upon his land this young farmer labored and prospered. Speculation and hard times came on but the thrifty pioneer lived upon "my earnings and not upon my credit or speculation". The oppressive heat of the summer of 1820 he describes in a non-terrestrial term; but in that season he plowed or broke more than 120 acres of new prairie with four yoke of oxen and with a man to drive them. Forty acres were fenced in and a log house was built. "We have pretty tight times here," he wrote the next year. "Most of the People are in debt for Land and many otherwise more than they can posably pay." His market report for that year is as follows: corn, 12½ cents per bushel; wheat, 50 cents; flour, $3.00 to $3.50 per barrel; pork, $2.50 to $3.00 per barrel; and whiskey, $.25 per gallon.

Political and religious conditions were noted by this pioneer. In 1824 he believed that the majority of the people in Illinois favored John Quincy Adams for President with Clay as a second choice. The next year he states that "our political squables and quarrels have subsided" and that the slavery question in Illinois had been settled forever. Referring in 1836 to the eastern solicitude for the spiritual welfare of the people in the Mississippi Valley when Bible societies and missionary enterprises were being projected, he wrote in a tone of some impatience: "I do not see but the cause fl[o]urishes as well here as in other places the people here contribute freely for the support of Preachers both in money and good living which is the main thing."

Possessing a clear title to 270 acres of land in 1821, Flagg continued to prosper. Four years later he speaks of his flourishing orchards of peach, cherry, and pear, besides several log buildings. In addition he possessed four yoke of oxen, three good ploughs, two wooden carts, sleds, a grindstone, two axes, shovels, hoes, etc. In June of 1825 he had purchased 1500 acres of valuable land for the unpaid taxes which amounted to $103.00.

Confiding his financial rating, he wrote to his brother in 1821: "I owe $56 dollars and have due to me $110 from good men and have $34 in cash on hand. I have twelve shirts six pair Pantaloons 6 vests ten cravats & handkerchiefs two round abouts 4 pair stocking two pair shoes one Coat in Short I suppose my whole property to be worth about $1500 in cash and now I suppose I have been particular enough on that subject at any rate I do not wish any one to see this letter except yourself."

For forty years, until his death in 1857, this man was a resident of Illinois, and, as in the case of thousands of other pioneers his neighborhood became a reservoir into which population from the east filtered. Of his eight younger brothers and sisters five followed him to Illinois — four settling in Madison County. His sister's family likewise removed to Illinois shortly after her death, and as late as 1850 one of his nephews from the East moved to Paw Paw, Illinois. "The descendants of these brothers and sisters", says Dr. Buck, "are now scattered all over the United States from Vermont to California and thus the history of this family typifies in a way the spread of the American people across the continent."[12]

In this spread of population over the continent the plain, aggressive Americans coming singly, in pairs, in families

[12] Quotation from Buck's introduction to the *Pioneer Letters of Gershom Flagg*.

and in colonies were the type which transplanted schools, churches, and town-meetings. As late as 1880 there were 12,588 citizens in Michigan who were natives of Vermont. The migratory spirit of these easterners had many years before passed into verse:

> Come, all ye Yankee farmers who wish to change your lot,
> Who've spunk enough to travel beyond your native spot,
> And leave behind the village where Pa and Ma do stay,
> Come follow me, and settle in Michigania,—
> Yea, yea, yea, in Michigania.[13]

When the first public land sales began in this State at Burlington on November 19, 1838, land-hungry settlers from nearly every State in the Union were there. The Massachusetts Yankee was present to seize any bargain; the Kentuckian with his soft southern accent mingled with his brethren from South Carolina, Virginia, Maryland, and Tennessee; large numbers were gathered from Illinois, Ohio and Indiana; the Hadleys were registered from South Carolina; and besides there was present a considerable group of settlers who had but lately come from the District of Columbia.[14]

In the staid records of these land sales as preserved in Washington, D. C. appear descriptions of the tracts sold, the prices, the date, and the amount of sale. In the thousands of names there recorded one can find but very few names of men whose constituency of acquaintances or reputation was wider than the neighborhood or county from whence they had come. These were plain, uncelebrated men making history that was fundamental in State-building. Though the bidding in of a tract of 160 acres and its later settlement would seem to be acts divorced from any glamor

[13] Quoted from Farmer's *History of Detroit and Michigan* in Mathews's *The Expansion of New England,* p. 227.

[14] Pelzer's *Augustus Caesar Dodge,* pp. 55–61.

and romance they were of the highest importance in the life of the settler.[15] To him they meant a livelihood, property, security, and a Christian home.

It was estimated that for the public sales at Burlington between November, 1838, and June, 1840, ninety per cent of the lands sold fell into the hands of actual settlers. It is perhaps true that nowhere in the history of settlement and immigration can there be found a more democratic and a sounder economic condition — a condition for which these plain settlers were the basis.

It is the common, average man who has furnished mass or collectivity. However great may have been the influence of a dominating personality there are whole fields of history where such influence is but slightly possible; as for example in customs, language, mythology, and sometimes in law and industry. Those designated as leaders must have an understanding of the will, the feelings, and the vague ideas of the social body of common people. In this wise strong personalities can push forward policies or creeds to a fuller clearness and a wider acceptance.[16]

Says Hegel in describing what he calls the "World-Historical Individuals": "Such individuals had no consciousness of the general Idea they were unfolding, while prosecuting those aims of theirs; on the contrary, they were practical, political men. But at the same time they were thinking men, who had an insight into the requirements of the time — *what was ripe for development.*"[17]

This is but another way of saying that laws — moral and

[15] Cf. preface to Treat's *The National Land System 1785–1820.*

[16] Cf. Dow's *Features of the New History: Apropos of Lamprecht's "Deutsche Geschichte"* in the *American Historical Review,* Vol. III, pp. 431–448, (435).

[17] Hegel's *Lectures on the Philosophy of History* (Translated by J. Sibree, 1894), pp. 30, 31.

statutory — to be successful must have a measure of acceptance or approval from those units which make up the masses of the common people. As the Mississippi could not be, were it not for its tributaries, so Andrew Jackson's career would have been impossible but for the prejudices, ideals, and strength which arose from that stratum of society known as Western Democracy.

It has been stated that the essential factor in the building up of the British Empire has been the colonist rather than the colonel, the settler rather than the sergeant; the men who have wielded the spade and trowel rather than the sword and spear.[18] So in the colonization of America it was by plain men from England, Holland, and France that ideals were transplanted and a new nation founded. And, it was by the hunters, fur-traders, tree-fellers, farmers, and miners who swarmed across the Mississippi River that the Louisiana territory was won for the United States rather than by the diplomats in Washington and Europe. It was by the unsuspected but irresistible powers of these plain folk that the Americanization of the Mississippi Valley was accomplished.[19]

The Middle West is preëminently the product of the plain people. "All through American history democracy

[18] Pollard's *Factors in Modern History,* p. 239.

"Yet, with few exceptions, the writers of history, until a comparatively recent period, have written chiefly of wars and words, of soldiers and politicians, and have neglected the matters of more real moment to the seriously interested student of man — matters pertaining to his origin and development, to his daily life and pursuits, his migrations and colonies, his taboos, ceremonies, social culture, and religions."— Hanna's *The Wilderness Trail,* Vol. I, p. XIII.

[19] Cf. Roosevelt's *The Winning of the West* (Standard Library Edition), Vol. IV, pp. 276, 281.

"The history of the occupation of the West is the story of a great pilgrimage. It is the record of a people always outstripping its leaders in wisdom, in energy and in foresight. A slave of politics, the American citizen has none the less always proved himself greater than politics or politicians."— Hough's *The Way to the West* (Bobbs-Merrill Edition, 1903), p. 2.

has been like a trade-wind, blowing over from the sunset. The young States of the Ohio Valley led in multiplying the number of elective offices, in introducing rapid rotation in office, in submitting State constitutions to popular ratification. Class bulwarks of colonial date were thus pounded to pieces by the surf of democratic sentiment from the West. Jeffersonian and Jacksonian Democracy, Lincoln Republicanism, Grangerism, Populism, Bryan Democracy, Roosevelt Republicanism — wave after wave has rolled seaward, loosing the East from its Old-World or 'first-family' or 'best-people' moorings. Some of these impulses were wrong-headed and died away, others prevailed, and the sum of these successful Western initiatives is what we offer to the world as the American political system.''[20]

A study and appreciation of the contributions made by Plain Men is a distinct phase of the newer history. It is a study of history from its understructure and foundations to its capitals and colonnades. ''The real life of the American nation spreads throughout forty-eight commonwealths. It is lived in the very commonplaces of the shop, the factory, the store, the office, in the mine, and on the farm. Through the commonwealths the life and spirit of the nation are best expressed. And every local community, however humble, participates in the formation and expression of that life and spirit.''[21] And that is the history made by Plain Men.

LOUIS PELZER

THE STATE UNIVERSITY OF IOWA
IOWA CITY

[20] Quoted from Ross's *The Middle West* in *The Century Magazine,* Vol. LXXXIII, No. 5, pp. 686–692.

[21] Quoted from Shambaugh's *The West and the Pioneers* in the *Wisconsin State Historical Society Proceedings,* 1910, pp. 133–145.

EPISODES IN THE EARLY HISTORY OF THE WESTERN IOWA COUNTRY

[The writer of this article consulted and weighed the testimony of predecessors in the field: he investigated practically all available sources which deal with the history of western Iowa, sifted a vast number of conflicting and confusing statements, and with the aid of source materials heretofore unused arrived at what he believes is a substantially accurate glimpse of episodes which occurred in that region before permanent white settlements began in the year 1846, not considering for the moment settlements made in 1840 in what are now the southern townships of Fremont County, a strip of territory over which the State of Missouri held disputed sway until a decree of the Supreme Court of the United States decided in favor of Iowa's claim to jurisdiction.

During the progress of his researches the writer discovered that local historians, though deserving of much credit, are generally not to be relied upon in the matter of dates and are oftentimes untrustworthy in other respects. He has, therefore, whenever possible, resorted to chronicles or records contemporaneous with the events themselves because these unquestionably possess greater historical merit than reminiscences and unsupported statements of individuals.— EDITOR.]

Historical writings which deal with the Mississippi River settlements of Iowa are fairly numerous and extensive; while those relating to the Missouri River region are both few and inaccurate. Indeed, it may be asserted that scarcely more than fragments of history have been preserved in the local accounts of western Iowa. And yet a striking pageant could be arranged to represent in order of time the series of romantic incidents which preceded the inrush of pioneers into the western Iowa country. What happened upon Iowa's western border before the wave of emigration and occupation reached it from the East? The story can be gathered from many scattered sources. And so, "to recover as far as possible those obscure beginnings in the founding of a great empire which the historian has neglected for the more alluring themes connected with the

building of the superstructure''[1] is a task both interesting and instructive.

For hundreds of years before Mormon refugees founded a community upon the Missouri River bank of Iowa, the country offered its exceptional opportunities to the aboriginal inhabitants. Who these Indians were before the end of the seventeenth century cannot be ascertained. Even after that it is a fact worthy of note that the Red Men preferred to dwell upon the Nebraska side of the river — there they set up their tribal villages and there missionaries, fur-traders, and government agents settled or visited among them after the year 1800. Nevertheless, the Iowa side of the Missouri River was not wholly unpeopled, as numerous early records bear witness.

In the spring of the year 1676 a Jesuit priest, Louis André, wrote a letter in which he referred to some Indians called ''aiaoua'': they were said to dwell 200 leagues west of Lake Michigan in a village ''very large but poor; for their greatest wealth consists of ox-hides and of Red Calumets.'' This is probably the earliest mention of the Ioway Indians, and indicates that they dwelt somewhere near the famous pipestone quarry in southwestern Minnesota.[2]

Early in July, 1700, on his expedition up the Mississippi River, the Frenchman Le Sueur received word that the Sioux and the ''Ayavois'' had defeated their enemies. Turning westward by way of the St. Peter's River, he later canoed into the Blue Earth River (southern Minnesota) and learned that the Ayavois and Otoctatas lived beyond. Two Canadians were then despatched to invite them to build a village near Le Sueur's Fort L'huillier, but they returned without having found the way to these tribes.[3]

1 Chittenden's *The History of the American Fur Trade of the Far West*, Vol. I, p. 82.

2 Thwaites' *Jesuit Relations*, Vol. LX, pp. 203, 321; and Miner's *The Iowa Indians*, pp. 10, 11, 12, 13.

3 Shea's *Early Voyages Up and Down the Mississippi*, pp. 92, 104, 105.

One of the most interesting records of western Iowa's hazy past is a map of the northwestern part of Louisiana compiled in 1703 by William de L'Isle, the most noted French cartographer of his day. This chart with its French nomenclature indicates a trader's trail, "Chemin des Voyageurs", commencing at the Mississippi River a few miles below the mouth of the Wisconsin River and running westward across northern Iowa to the vicinity of Spirit Lake. There, near one of the many lakes, was a "village des Aiaouez"; thence the trail continued due westward to the Big Sioux River, on either side of which were two more Ioway villages, probably near the site of the present city of Sioux Falls, South Dakota. To the south, below the mouth of the Little Sioux River three Teton Sioux villages are shown, and opposite the mouth of the Platte River were four Yankton Sioux villages. Near the southwestern corner of the present State of Iowa, "Les Octotata" (the Otoes) were located, and south of them three villages of "Yoways".[4]

On the best authority of that early day, therefore, it would seem that French traders came into relations with the Indian inhabitants of western Iowa about the beginning of the eighteenth century. But Frenchmen seem to have aimed primarily at the establishment of trade with the various Sioux tribes of the region now comprised in South Dakota and southern Minnesota, for the Indians there were much more numerous than in western Iowa, which was really little more than the hunting-ground of several tribes. In the year 1737 the French ceased their operations among

[4] Miner's *The Iowa Indians,* pp. 22, 23, 24. For a small sketch of the map see *The Monthly South Dakotan,* Vol. III, opposite p. 285.

An enumeration of the savage tribes of New France in 1736 placed the "Ayowois" south of the Missouri River, but the Minnesota River was probably meant. The enumerator did not attempt to locate other tribes on the Missouri. — *Documents Relating to the Colonial History of the State of New York,* Vol. IX, pp. 1055, 1057.

the Sioux because the Sacs and Foxes from the Wisconsin country had settled among the Ioways west of the Mississippi River and had constantly harassed fur-traders and even killed stray French voyageurs. From this vast region in 1757 the French could report no fort or trading-post, but only an exchange of hundreds of packages of peltries every year by Sioux, Sacs, Foxes, and Ioways.[5] On the lower Missouri River, French traders had maintained a post as early as 1722, but they had been foiled in their exploitation here also. In 1757, on the site of Fort Leavenworth, they had a garrison — thither came the Missouri and the Kansas Indians with packages of deer and bear skins, and from a point fifty leagues above came "the Otoks and the Ayoués; two hundred men furnish eighty packages, of beaver."[6]

These few hundreds of Ioway Indians seem to have had the nomadic instinct to a marked degree, as the foregoing accounts indicate. They moved their villages from one locality to another and they journeyed annually to the French markets for the Indian trade: southward down the Missouri or eastward to the Mississippi and even beyond. There is extant a letter which shows the strong grip which the French had on their native subjects of northern Louisiana, when England was waging war for the capture of Canada from France. On the 20th of July, 1757, Vaudreuil wrote to the French minister as follows:

> Monseigneur — Previous to my arrival in this colony, the Ayoouois killed two Frenchmen in the Missouri country. I at once hastened to give my orders to the commandants of the posts whither that nation might come, that the first officer to whose post they came was to compel them themselves to bring me the murderers.
>
> The commandant of La Baye [Green Bay] had occasion to see those Ayoouois. He spoke to them in my name with such firmness that 10 savages of the same nation came to Montreal expressly to

5 *Wisconsin Historical Collections,* Vol. XVII, p. xv.

6 *Wisconsin Historical Collections,* Vol. XVIII, p. 178.

deliver the murderers to me. They presented them to me in the name of their nation with great submission and resignation that I might have their heads broken if such was my intention. They nevertheless earnestly begged me to pardon them and assured me that they themselves would avenge the death of the two Frenchmen and would compensate me for their loss by the blows they would strike against the English.

All our nations of the upper countries and our domiciled savages who were in this town, to the number of from 1,700 to 1,800, joined those Ayoouois and gave me the most touching words to induce me to pardon them. I did not deem it advisable to refuse them because all those nations were about to start to join my expedition against fort George and circumstances required that I should give proofs of kindness to all those nations.

Nevertheless, I made them very anxious to obtain that favor and granted it only after repeated solicitations.

That favor will contribute more to restrain the savage nations than if I had had the two murderers' heads broken, because all the nations that interested themselves in their fate are, at the same time, obliged to punish them if they dip their hands in French blood in future.[7]

As is well known, England captured Canada and France ceded the province of Louisiana to Spain. But the latter step did not prevent British aggression in the Upper Mississippi River country. Lieutenant James Gorrell of Green Bay was engaged during the whole summer of 1762 "in treating with the tribesmen, ranging from the Menominee

[7] In June, 1757, General Montcalm wrote that 800 tribesmen had arrived at Montreal, believing that the French cause was likely to triumph over the English, among them the Ioways: "the latter have never appeared before at Montreal". To quote further from his letter: "There occurred here, yesterday, the grand ceremony of pardoning two Iowas who had killed two Frenchmen, two years ago. They smoked the peace calumet; the murderers were brought out, bound, with the emblem of a slave [prisoner] in their hands, singing their death song as if they were to be burned. Saint-Luc and Marin fulfilled the functions of the chevalier de Dreux and Monsieur Desgranges. These savages, so the ladies say, dance much better than our domiciled ones, and one of these days they are to be reviewed on the plain du Sablon. The generals and the ladies will be present."—*Wisconsin Historical Collections*, Vol. XVIII, pp. 195–197.

in the neighborhood of the fort, to the Iowa and Sioux in the farther West.''[8] Thus began the British régime. Englishmen from Canada got control of the Indian trade in at least the northern part of the trans-Mississippi region: English presents at the proper time won the good will and patronage of the natives, including the Ioways, no doubt. Spanish reports for the years 1769 and 1777 show that the ''Ayooua'' or ''Hayuas'' then dwelt upon the Des Moines River in what is to-day the northwestern corner of Van Buren County.[9] These Indians and their Sac and Fox friends probably hunted all over western Iowa, while bands of Sioux descended from the north and Otoes and Omahas crossed the Missouri from the west.

English traders, however, acquired no exclusive monopoly, for after Pierre Laclède and Auguste and Pierre Chouteau founded St. Louis in 1763 as a trading-post for the Missouri River country many Indian tribes were lured southward to trade. Thus in May and June of the year 1769, according to a Spanish account, ''they descend the rivers in numerous parties with their traders to declare their furs . . . . ; and when they depart one has to make them . . . . a present''.[10] Englishmen carried on a brisk traffic upon the Des Moines River and penetrated as far westward as the Missouri, no mean contenders with the Spanish licensees for the wealth in furs.[11] Spanish governors of Louisiana constantly declared that they could not cope with British aggression in the northern part of their unpeopled possessions.

In December, 1780, Francisco Cruzat, Governor of Spanish Illinois, complained: ''Such are the movements which the English show in this barbarous and inhuman war, in

8 *Wisconsin Historical Collections,* Vol. XVIII, p. 249.

9 *Wisconsin Historical Collections,* Vol. XVIII, pp. 300, 363.

10 *Wisconsin Historical Collections,* Vol. XVIII, p. 305.

11 Houck's *The Spanish Régime in Missouri,* Vol. I, p. 166.

order that they might succeed in their attempts, that even in the Misury they had introduced two of their banners, which I have had surrendered to me by telling the tribes who had received them, that in order to be our allies they ought not to have in their villages other ensigns than the Spanish.'' The same Governor also remarked that ''a band of Aioas, doubtless excited by the enemy, has corrupted the Hotos [Otoes, dwelling near the mouth of the Platte River] tribe which is located on the upper Misury and has promised them to join the other tribes opposed to us in order to show as great hostility as possible toward us. . . . I know by experience that the appearance of gain does not excite them to take action, but the reality of presents does. Since the English make so many of these to all the tribes of whom they wish to make use, they always obtain from them whatever they desire''.

Without troops stationed upon the St. Peters and the Des Moines rivers, a Spanish Governor asserted in 1794, St. Louis merchants could not win the immense fur-trade with the nations of the Missouri from the English ''who usurp that trade and daily introduce themselves in greater number upon said river and among the nations living near it.'' Thus it happened that nothing could be done to cause the dominion of Spain to be respected in Upper Louisiana.[12]

In the year 1800 Spain retransferred the province to France and three years later Napoleon in despair sold it to the youthful government of the United States. During this brief period an Englishman named Thomas G. Anderson wintered among the Ioway Indians fifty miles up the Des Moines River as the agent of a Green Bay trader. His competitor at the same point was a Frenchman by the name of Julien. The Ioways, ''a vile set'', then hunted near the

[12] *Wisconsin Historical Collections*, Vol. XVIII, pp. 412, 414, 449, 452; and Robertson's *Louisiana under Spain, France, and the United States*, Vol. I, pp. 335–337.

Missouri. To avoid the expense of shipping goods up the river to the vicinity of their hunting grounds, the traders agreed that both would wait for the Indians to bring their furs to the shops on the Des Moines. Not long afterward the Englishman discovered that he had been deceived by the Frenchman, and after roundly abusing him, Anderson prevailed upon the men of his trading post to journey across country to Julien's house near the Missouri and "started the next day with seven loaded men, taking provisions for one day only, depending on game for our supply." To quote from Anderson's narrative:[13]

> The little islands of wood, scattered over the boundless plains, were swarming with wild turkeys, so that we had plenty of poultry. At the end of six days we reached our destination safe and sound, taking Mr. Julien's two *engagés* by surprise. My party soon fitted up a temporary shop. Not long after, the Indians came in, made a splendid season's trade, managed for the transportation of my packs of fur by leaving a man to help Mr. Julien's two *engagés* down with their boat. Thus I completed my winter, and Mr. Julien found his trickery more costly than he anticipated.

Beginning with the year 1803 the United States government seriously turned its attention to the West by fitting out an expedition under Lewis and Clark to explore the new trans-Mississippi purchase. Starting from St. Louis in that memorable year in two pirogues and a keel-boat fifty-five feet long, equipped with large square sail and twenty-two oars, the party of forty-five men slowly journeyed

[13] *Wisconsin Historical Collections,* Vol. IX, pp. 151, 152. The late Dr. Draper and Rev. William Salter believed the Frenchman mentioned here was Julien Dubuque. It is doubtful whether Dubuque attempted to cover the whole Iowa country when he had all the work he could do in operating the lead mines near the Mississippi. There is enough evidence to prove the existence of a trader by the name of Julien. In an attack on Fort Madison in September, 1812, the Winnebago Indians plundered and burnt the houses of a "Mr. Julian", the same man who later sold in Illinois "all his improvements, consisting of an old dilapidated trading house" and land which he falsely represented was a Spanish land grant, made to him before 1805.— *Annals of Iowa,* Vol. V, p. 885; and *Annals of Iowa* (Third Series), Vol. III, p. 105.

northwestward up the muddy Missouri. At one place they met five pirogues loaded with furs and peltries from the Sioux country, stopped the little trading fleet, and engaged an old Frenchman Dorion to act as Indian interpreter.[14]

What is now western Iowa came under the observation of the exploring party from July 18 to August 21, 1804, and of the twenty-one camping places selected during that time, eleven were upon the Iowa shore. On the 22nd of July they pitched camp at a point somewhere near the present boundary between Mills and Pottawattamie counties. Here the leaders intended to send for the neighboring tribes to tell them of the recent change of government and the wish of the United States to cultivate their friendship. Here upon Iowa soil Lewis and Clark remained for five days: provisions were dried, new oars made, and despatches and maps prepared for the President. The men also hunted and fished, crossed the river to search for the Otoes and the Pawnees, and returned without success.[15]

On July 28, 1804, the party disembarked just north of the mouth of Indian Creek (now called Pigeon Creek) some eight or ten miles north of the present city of Council Bluffs, at "the spot where the Ayauway Indians formerly lived" before emigrating to the Des Moines River.[16] A few days later Lewis and Clark held a council with the Otoes on the west side of the Missouri and called the place Council-bluff,[17] a name which fifty years later became the property of the first town in western Iowa, Council Bluffs.

[14] Wheeler's *The Trail of Lewis and Clark,* Vol. I, p. 148.

[15] Coues' *The History of the Lewis and Clark Expedition,* Vol. I, pp. 52, 53.

[16] Coues' *Lewis and Clark Expedition,* Vol. I, p. 61. The site of this Ioway village is also mentioned in Thwaites' *Early Western Travels,* Vol. XIV, p. 221, footnote.

[17] This place later became the site of Fort Calhoun, Washington County, Nebraska. Many writers on western Iowa cannot get away from the idea that Lewis and Clark met the Indians in council in Pottawattamie County, Iowa. Such an error has been perpetuated by D. C. Bloomer in *Annals of Iowa,* Vol. IX, p. 525, and by the authors of the *History of Pottawattamie County, Iowa,* Vol. I, p. 5. See Coues' *Lewis and Clark Expedition,* Vol. I, pp. 66, 67.

Lewis and Clark reported that the tribes west of the Missouri River traded with the merchants of St. Louis, and were on friendly terms with the Indians east of the river: the "Ayouwais" and the "Saukees and Foxes", all of whom laid claim to the western Iowa country. The former were said to be "a turbulent savage race, frequently abuse their traders, and commit depredations on those ascending and descending the Missouri; their trade can't be expected to increase much." They were reported to have one village of probably 800 souls including 200 warriors, "forty leagues up the river Demoin, on the Southeast side"; they traded with "Mr. Crawford, and other merchants from Michilimackinac" at their village and hunting camps, and supplied deer skins principally, also skins of black bear, beaver, otter, grey fox, raccoon, muskrat, and mink. It was asserted that "with encouragement they might be induced to furnish elk and deer's tallow and bear's oil."[18]

Lewis and Clark also ordered their men to pitch camp just below Soldier's River (Harrison County), and a few miles above the Little Sioux River (Monona County). Here the interpreter told all he knew about the river's sources, also of the Des Moines River. On the 8th, 9th, 10th and 11th of August the party again tarried in what later became Monona County. Then, at noon on August 20th the party put to shore just below the site of Sioux City: "Here we had the misfortune to lose one of our sergeants, Charles Floyd. Died of bilious colic. Buried on top of bluff with the honors due to a brave soldier; the place of his interment was marked by a cedar post, on which his name and the day of his death were inscribed. We called this place Floyd, also a small river about 30 yards wide. Here we camped."[19]

[18] *American State Papers, Indian Affairs,* Vol. I, pp. 707–710.

[19] Coues' *Lewis and Clark Expedition,* Vol. I, pp. 68, 70, 71, 73, 74, 79, 80.

Dorion, the Sioux interpreter, was well acquainted with the Big Sioux River, which emptied into the Missouri River at this point, declaring it navigable upwards of 200 miles to the falls and beyond. He also told of the pipestone quarries of the Minnesota country.

Leaving the remains of Charles Floyd, "the first white man buried on the Louisiana Purchase beyond the confines of established settlements", Lewis and Clark delved into an unknown wilderness westward. Returning two years later they visited Floyd's Bluff, ascended the hill, and found the grave had been disturbed and left half-covered: after filling it up, they once more paddled their canoes southward. Just above the mouth of the Little Sioux River they met Auguste Chouteau's trading-boat from St. Louis bound for the Yankton Sioux on the River James.[20]

For many years after the visit of Lewis and Clark western Iowa lay almost untrodden by white men but not unseen by them, for when reports brought the fur-traders of St. Louis assurance "of the rich resources of the upper Missouri River, they made preparations to reap the golden harvest."[21] Manuel Lisa set out with a keel-boat laden with goods in the spring of 1807 and afterward this daring pioneer made annual trips up the river carrying goods for the Indians and supplies for the trappers.[22]

The first American firm to enter the fur-bearing field on the Upper Missouri was the Missouri Fur Company, organized in 1809 with Manuel Lisa as its inspiring genius. In the spring of that year the corporation sent out a party of one hundred and fifty men. They established trading stations far beyond the Iowa country, but owing to the hostility of the Indian tribes in that distant region, the voy-

20 *Iowa Historical Record,* 1900–1902, pp. 362, 363, 398; and Thwaites' *Original Journals of the Lewis and Clark Expedition,* Vol. V, pp. 376, 378.

21 Coman's *Economic Beginnings of the Far West,* Vol. I, p. 303.

22 *American State Papers, Indian Affairs,* Vol. II, pp. 201–203.

ageurs were forced southward, and after the year 1811 Fort Lisa near the old "Council-bluff" of Lewis and Clark became for a decade the most important trading-post on the Missouri.[23]

In the spring of 1811 unpeopled western Iowa witnessed the spectacle of two rival trading parties rowing their boats with all haste to the Indians beyond. Wilson P. Hunt, leader of the overland expedition sent out by John Jacob Astor, accompanied by the English scientist, John Bradbury, was the first to depart from St. Louis with his Canadian boatmen.[24] Three weeks later Manuel Lisa, accompanied by Henry M. Brackenridge, began his chase to overtake the Astor party, in a keel-boat manned by twenty-two oarsmen. Brackenridge and the party passed Floyd's Bluff, "marked with a wooden cross, which may be seen by navigators at a considerable distance." The journalist wrote as if he visited the place, for he added:

> The grave occupies a beautiful rising ground, now covered with grass and wild flowers. The pretty little river, which bears his name, is neatly fringed with willow and shrubbery. Involuntary tribute was paid to the spot, by the feelings even of the most thoughtless, as we passed by. It is several years since he was buried here; no one has disturbed the cross which marks the grave; even the Indians who pass, venerate the place, and often leave a present or offering near it. Brave, adventurous youth! thou art not forgotten — for although thy bones are deposited far from thy native home, in the desert-waste; yet the eternal silence of the plain shall mourn thee, and memory will dwell upon thy grave![25]

After the War of 1812 began and British influence became supreme in the councils of Indian tribes on the Upper Missouri, St. Louis traders were forced to concentrate upon the

[23] *American State Papers, Indian Affairs,* Vol. II, p. 202; and Coman's *Economic Beginnings of the Far West,* Vol. I, p. 307.

[24] See Bradbury's *Travels* in Thwaites' *Early Western Travels,* Vol. V, pp. 35, 37, 39.

[25] Thwaites' *Early Western Travels,* Vol. VI, pp. 10, 27, 85.

west bank of the Missouri River opposite the Iowa country. Astor's enterprise failed in the Far West, and so often were traders ambushed and waylaid that Congress provided for the sending of a regiment under Colonel Henry Atkinson to establish military posts on the Upper Missouri. These troops arrived at the old "Council-bluff" late in September, 1819, and called their wintering-place "Camp Missouri".[26]

Colonel Atkinson was followed by Major Stephen H. Long and a number of scientists, in the first steamboat which ever ascended the Missouri, having journeyed all the way from Pittsburgh on the Ohio River. The "Western Engineer" consumed three months in the voyage from St. Louis, passing the remains of an old Ioway village near the mouth of the Mosquito River, a few miles below the present city of Council Bluffs, and arrived at Fort Lisa welcomed by a salute from the establishment. Half a mile above this post and five miles below "Council-bluff" the party set up winter quarters and called the place Engineer Cantonment. In October they held a council with about one hundred Otoes, seventy Missouris, and fifty or sixty Ioways. Dr. Edwin James expressed high regard for the principal chief of the Ioways, but considered the nation a faithless people who cheated the Missouri Fur Company by conveying their beaver skins down the river to Fort Osage, a government post. The Ioways were then about to leave their Missouri River friends to return to their village on the Des Moines River.[27]

[26] Coman's *Economic Beginnings,* Vol. I, p. 342; and Thwaites' *Early Western Travels,* Vol. XIV, pp. 9, 10. After 1821 Camp Missouri was called Fort Atkinson, which was discontinued in 1827, being superseded by the construction of Fort Leavenworth in that year.

[27] See Dr. Edwin James' account of the expedition in Thwaites' *Early Western Travels,* Vol. XIV, pp. 221, 229, 236, 265, 269, 270.

It seems that the Ioways were not immune to British influence during the War of 1812, for in September, 1815, the United States made a treaty with them reëstablishing peace and friendship.— Kappler's *Indian Affairs,* Vol. II, p. 85.

On Sunday, the 2nd of July, 1820, five army officers, including Captain Stephen W. Kearny, fifteen soldiers, four servants, an Indian guide with his wife and papoose, and eight mules and seven horses were ferried from "Councilbluff" across the Missouri and the mouth of the Boyer, and landed upon Iowa soil. They were despatched as a government expedition to discover a practicable route for the passage of United States troops between Camp Missouri and Camp Cold Water (later called Fort St. Anthony and Fort Snelling) on the St. Peter's or Minnesota River. After traveling northward about thirty miles they celebrated the Fourth of July "to the extent of our means; an extra gill of whiskey was issued to each man, & we made our dinner on pork & biscuit & drank to the memory of our forefathers in a mint julup." Following the course of the Boyer and the Little Sioux rivers, then east and northeast to Lake Pepin, and then northwest the party arrived at the northern post where, Captain Kearny declared, the officers "were a little astonished at the sight of us, we having been the First Whites that ever crossed at such a distance from the Missouri to the Mississippi river." For various reasons Captain Kearny reported that the circuitous route was impracticable and almost impassable throughout the entire year for more than very small military forces, and hence troops seem never again to have traversed this particular region.[28]

In September, 1825, a general treaty of peace was entered into by the United States and all except one of the Indian tribes of the Iowa country. By reason of the absence of the Yankton Sioux from the negotiations the government agreed that the treaty should not go into effect unless they

[28] Kearny's *Journal* in *Missouri Historical Society Collections,* Vol. III, map opposite p. 16. The journal is reprinted in *Annals of Iowa* (Third Series), Vol. X, pp. 343–371, and see pp. 344, 356, 357.

assented to the establishment of the boundary line between the upper fork of the Des Moines River and the mouth of the Rock River in what is to-day northwestern Iowa. According to the treaty, the Sioux Indians were to remain north of the line to prevent clashes with the Sacs and Foxes, the Ioways, and the Otoes whose just claims to the western Iowa country were duly recognized. The Yanktons acceded to the terms, and in February, 1826, the treaty was proclaimed as law among the native inhabitants of the Iowa land.[29]

On the 15th of July, 1830, there occurred at Prairie du Chien, Michigan Territory, an event of vital importance in the history of western Iowa. The government effected a treaty whereby several bands of Sioux, the Sacs and Foxes, the Ioways, the Omahas, the Otoes, and the Missouris ceded all their right and title to country situated south of the Rock River (now in Sioux County), east of the Big Sioux and the Missouri rivers, including also the northwestern corner of the present State of Missouri, and bounded on the east by the watershed between the Des Moines and the Missouri rivers.

None of these Indian tribes seems to have had a permanent place of residence in western Iowa at this time, and so they were really parting with whatever hunting rights they may have claimed in the region. By one article of the treaty the President of the United States was empowered to assign and allot the land to tribes living thereon, or to such other tribes as he might locate thereon for hunting and

[29] Kappler's *Indian Affairs,* Vol. II, pp. 177, 178.

The Yankton Sioux seem to have dwelt along the Missouri in the valleys of the James, the Vermilion, and the Big Sioux rivers, and hunted as far east as the headwaters of the Des Moines River. At different times posts were maintained for their convenience at the mouths of the rivers named above. The Yanktons were said to be the least troublesome of all the Sioux tribes and gave traders little annoyance.— Chittenden's *American Fur Trade of the Far West,* Vol. III, p. 864.

other purposes. Those primarily concerned in this provision were the Ioways who then had a village on the Platte River near the present Iowa-Missouri boundary line, and the Missouri River Sacs and Foxes (as distinguished from the Mississippi River Sacs and Foxes of eastern Iowa) who also dwelt in northwestern Missouri. The Sioux had permanent villages in the region now contained in the States of Minnesota and South Dakota; the Omahas and the Otoes lived upon the west bank of the Missouri; and a remnant of the once powerful tribe of Missouris had found refuge among the Otoes.[30] All these tribes, however, continued for many years to hunt upon the lands which they had sold and to their pursuit of the chase in the western Iowa country may be ascribed the bleached remains of the larger game animals of the prairie which settlers chanced to come upon twenty, thirty, and forty years later.

In 1822 the Astors of New York decided definitely to engage in competition with western merchants. They established a branch of the American Fur Company at St. Louis, and by trust methods soon obtained the lion's share of the Indian trade of the Missouri Valley. Year after year they shipped merchandise up the river in keel-boats, but so difficult, expensive, and dilatory was this means of transportation that the steamboat "Yellowstone" was built and sent upon her maiden voyage to the Upper Missouri in the spring of 1831. Thereafter the Company sent one or two cargoes each year as long as it continued in business.[31]

[30] Kappler's *Indian Affairs,* Vol. II, p. 218. See also the names of the separate tribes in *Handbook of American Indians* published by the Bureau of American Ethnology. For other details see *Senate Documents,* 1st Session, 23d Congress, Vol. VIII, No. 512, pp. 78, 94.

The extreme northwestern corner of the present State of Iowa, lying north of the Rock River in Sioux and Lyon counties, was not ceded by the Sioux Indians until July 23, 1851.

[31] Coman's *Economic Beginnings,* Vol. I, pp. 348, 350; and Chittenden's *Early Steamboat Navigation on the Missouri River,* pp. 23, 133, 136, 137, 138.

One of the passengers on the "Yellowstone" in 1832 was George Catlin, the famous Indian painter. Among the letters about his travels in the West can be found a reference to his visit to Floyd's Grave on "one of the most lovely and imposing mounds or bluffs on the Missouri River". To quote further:[32]

> I landed my canoe in front of this grass-covered mound, and all hands being fatigued, we encamped a couple of days at its base. I several times ascended it and sat upon his grave, overgrown with grass and the most delicate wild flowers, where I sat and contemplated the solitude and stillness of this tenanted mound; and beheld from its top, the windings infinite of the Missouri, and its thousand hills and domes of green, vanishing into blue in distance.

On the third trip of the "Yellowstone" in 1833, Maximilian, Prince of Wied, accompanied the fur-traders in the interests of science. He, too, in his book of travels made mention of Floyd's grave: "A short stick marks the place where he is laid, and has often been renewed by travellers when the fires in the prairie have destroyed it."[33]

For scarcely four months emigrants had been crossing the Mississippi River in crude ferry-boats or disembarking from steamboats in order to reach the eastern Iowa country, then called the "Black Hawk Purchase", when the United States disposed of the western Iowa country. On the 23rd of September, 1833, there was concluded at Chicago a treaty whereby the united nation of Chippewas, Ottawas, and Pottawattamies ceded all their lands in northern Illinois and southern Wisconsin (west of Lake Michigan) in exchange for not less than 5,000,000 acres of land situated between the Boyer River on the north and the Nodaway River on the south, thus becoming entitled to occupy the southern part of the Indian cession of 1830. They agreed to depart for their new lands as soon as convenient, at gov-

[32] Catlin's *North American Indians* (Hazard's Edition), Vol. II, pp. 407, 408.

[33] Thwaites' *Early Western Travels,* Vol. XXII, p. 278.

ernment expense, after a deputation of fifty persons under the general direction of an officer of the United States had visited the reservation. They stipulated, however, that they might remain upon their lands north of the State of Illinois for three years without molestation or interference.[34]

The United States Senate refused to ratify and confirm the treaty unless the united nation agreed to terms which would entirely exclude them from what is now the northwestern corner of Missouri and make the Little Sioux River to its source their northern boundary. To these demands the Indians meekly acceded in October, 1834. In the spring of 1835, an exploring party under Captain Gordon examined the country, then the western part of the Territory of Michigan and returned to Chicago a few days before an emigrating party of Pottawattamies started westward. They were disappointed to hear that the new land was mostly prairie, that there was scarcely timber enough for wigwams, there were no sugar-trees, that some of the land was too poor for snakes to live upon, and that warlike tribes lived to the north. These reasons created a great deal of unwillingness among the emigrants, for the government agents had represented to them that the new reservation was even superior to the lands which they had ceded. Finding themselves deceived they set about to get permission to live upon the timber-land of the northern half of the Little Platte country (now northwestern Missouri), until they should become accustomed to life on the prairies.

[34] Kappler's *Indian Affairs,* Vol. II, pp. 296, 297, 298. Besides money to be paid for the lands, sums were stipulated for the erection of mills, farm houses, Indian houses and blacksmith shops, agricultural improvements, agricultural implements and stock, and "for the support of such physicians, millers, farmers, blacksmiths and other mechanics, as the President of the United States shall think proper to appoint." Money was also to be expended for education and the encouragement of the domestic arts.

See also *Annual Report of the Bureau of American Ethnology,* Vol. XVIII, Part II, charts of Iowa, Illinois, and Wisconsin.

In the autumn of 1835 a considerable body of emigrating Indians started for their new home. By the month of November, 1837, a little over two thousand members of the united nation had removed west of the Mississippi River, but they had learned to entertain small respect for the government's treaty agents as their addresses to President Andrew Jackson and the following incidents show.[35]

What is now eastern Nebraska had for many years been the scene of frequent visits by white men with whom the Indian inhabitants had counseled and traded. Western Iowa just across the river had been scarcely more than a hunting-ground: whatever returns the chase may have yielded seem to have been bartered away elsewhere, for all this region, it seems, could boast no permanent trading-station, although Baptiste Roy, Soublette and Campbell, and the American Fur Company had been licensed to do business with the natives who hunted here. It is probable that skins and furs were brought to them at Bellevue, a point about ten miles south of the present city of Omaha. Here a Baptist missionary, Rev. Moses Merrill, had selected his field of labor among the Otoes in 1833 and later had set up a home and a school near the mouth of the Big Platte River. In his diary for the 28th of July, 1837, he wrote:[36]

[35] Kappler's *Indian Affairs,* Vol. II, pp. 306, 307; *Senate Documents,* 1st Session, 24th Congress, Vol. I, No. 1, pp. 274, 287; Vol. V, No. 348, pp. 2–7; 2nd Session, 25th Congress, Vol. I, No. 65, p. 18.

[36] Rev. Moses Merrill, known by the Otoes as "The-one-who-always-speaks-the-truth". He died among the Otoes in 1840.— *Transactions and Reports of the Nebraska State Historical Society,* Vol. IV, pp. 158, 184.

Shortly after Mr. Merrill came to the Otoes, Messrs. Dunbar and Allis arrived among the Pawnee Loups, also a missionary to the Omahas named Samuel Curtiss, all of whom gained the lasting ill-will of the traders who exchanged whiskey for furs and peltries. Lieutenant Albert M. Lea visited Bellevue in 1834. Mr. Merrill made several other interesting entries in his diary for 1835: "Doctor Whitman, a Presbyterian missionary, returned from the mountains. He had a prosperous journey"; and "General Hughes with sixty Ioway Indians is at Bellevue for the purpose of making peace with the Omahaws."— Pages 175, 186.

The exact date of the removal of these Indians to western Iowa seems to

A steamboat arrived at Bellevue with 100 Putawatamie Indians, accompanied by Gen. Atkinson, Col. Karney, Indians, and Dr. E. James, sub-agent. These Indians, with many others of the same tribe, are to locate on the other side of the Missouri.

It seems that in March, 1837, Congress had appropriated $132,000 for the removal and subsistence of the Pottawattamies and for locating a reservation for them. They had been mere tenants by sufferance and had squatted upon the Little Platte country contrary to treaty provisions. Constant encroachments by white settlers from the East had made it necessary for the government to effect some readjustment. The result was that the State of Missouri was authorized to extend her northern boundary westward to the Missouri River. This measure met with opposition: Governor Henry Dodge of Wisconsin Territory (which included the Iowa country) wrote to George W. Jones, Territorial Delegate in Congress, that he had recently received a letter from the Indian agent at the Council Bluffs (Bellevue), telling of Pottawattamie complaints about the State Commissioners of Missouri. Governor Dodge declared that the United States had placed the Indians in possession of the land and that any interference on the part of the State authorities was calculated to produce difficulties between the frontier inhabitants and the Pottawattamies. Nevertheless, the latter were bodily removed northward, some being conveyed by steamer and the larger portion being

have been difficult to ascertain. Rev. William Salter has ventured to give none; Mr. Abernethy in *Annals of Iowa* (Third Series), Vol. VII, p. 443, gives 1835 as the year; Mr. Pickard in Vol. II, p. 184, places the removal "between 1832 and 1835"; a writer in *Publication No. 11 of the Illinois State Historical Library,* 1906, p. 70, declares: "About 1836 and 1837, under the supervision of the Government, the Indians were removed westward, and Mr. LeVasseur was the Government agent in charge"; and in *Transactions and Reports of the Nebraska State Historical Society,* Vol. II, p. 150, it is stated that General Atchison removed the Pottawattamies previous to August, 1837.

For a list of licensed Indian traders see *House Executive Documents,* 1st Session, 23rd Congress, Vol. I, No. 45.

escorted across the country by a special force of cavalry.[37]

Dr. Edwin James, who had been the surgeon and historian of Major Long's expedition in 1819–1820, became sub-agent of the Pottawattamie Indians by appointment on April 28, 1837, at a salary of $750. The temporary buildings of the sub-agency were set up one mile east of the mouth of the Big Platte River, "in a small walnut grove surrounded by a small bottom prairie, dry and fertile." Here a blacksmith shop for the making and repair of agricultural implements in the spring and of guns, traps, axes, knives, fire-steels, and so on the rest of the season, and a dwelling-house were constructed, perhaps in the year 1837. Dr. James with his wife and son called upon the Merrills at Bellevue, their nearest white neighbors in this vast Indian territory. When the Otoes of the Nebraska country murmured loudly because their principal support in Iowa game was cut off, and seriously debated crossing the river to make their abode among the Pottawattamies, Dr. James and Rev. Merrill dissuaded them from taking such a step because some of the newcomers were intemperate and quarrelsome.[38]

[37] *Annals of Iowa* (Third Series), Vol. III, pp. 395, 396; and *Iowa Historical Record,* 1885–1887, p. 268. See also *House Executive Documents,* 2nd Session, 25th Congress, Vol. II, No. 57, p. 22.

This removal did not occur in the spring of 1838 as stated by D. C. Bloomer in *Annals of Iowa,* Vol. IX, p. 526, and Vol. II (Third Series), p. 549; and in *History of Pottawattamie County,* Vol. I, p. 6. The writers of these accounts disagree on many points and cannot be corroborated by the consultation of other sources.

The State Commissioners of Missouri fixed the boundary line about ten miles north of a line surveyed and marked by John C. Sullivan in 1816. The Indians must have felt that they were being cheated out of a big strip of country, for the old Sullivan line had been recognized for years as the correct one, and on that basis the Indians had bargained. The dispute started in 1837 was ended by a decree in favor of Iowa in 1849.— 7 Howard's Reports, 660, 674–677.

[38] *Transactions and Reports of the Nebraska State Historical Society,* Vol. IV, pp. 185, 186, 187, 188; *Senate Documents,* 1st Session, 26th Congress, Vol. I, No. 1, p. 503; 2nd Session, 26th Congress, Vol. I, No. 1, pp. 321, 322.

Dr. James continued to reside at "the Council Bluffs sub-agency" until his resignation in 1838, and after that the Council Bluffs agent at Bellevue took charge for a while. David Hardin and his family arrived early in the spring of 1838 on board the steamer "Antelope" from Fort Leavenworth. He had been appointed farmer to the Pottawattamies in September, 1836, at a salary of $600. It is said that he located near a big spring on what is now East Broadway, Council Bluffs. The Pottawattamies planted very little corn or anything else, "except here and there one, who happened to have a hoe or a plough." One band, consisting of about one-third of the united nation, headed by Chief Big Foot, did not enter the Iowa country until the fall of 1838 and then retired eastward to set up a village on the Nishnabotna River almost fifty miles away. All the other villages were from two to fifteen miles distant from the agency buildings.[39]

Trader's Point, situated in the northwestern corner of the present Mills County and opposite the Council Bluffs agency at Bellevue, a well-known crossing-place on the Missouri, became the site of a few establishments licensed specially for trade with the Indians. Here, for instance, Pierre A. Sarpy, the American Fur Company's agent, kept a station. It came to be a "noted place of rendezvous, alike for Indians and traders."[40]

[39] For items of information concerning Edwin James see *House Executive Documents,* 2nd Session, 25th Congress, Vol. VI, No. 135, p. 4; 3d Session, Vol. III, No. 103, p. 5; and Vol. IV, No. 174, pp. 53, 59, 61. Dr. James later became a resident of Burlington, Iowa. See his biography in *Annals of Iowa* (Third Series), Vol. VIII, pp. 161, 217.

As to David Hardin see *House Executive Documents,* 2nd Session, 25th Congress, Vol. VI, No. 135, p. 17; and 3d Session, Vol. III, No. 103, p. 18.

D. C. Bloomer is authority for the statement that Mr. Hardin settled in the present city of Council Bluffs.— *Annals of Iowa,* Vol. IX, p. 526.

As to Chief Big Foot see *Senate Documents,* 3d Session, 25th Congress, Vol. I, No. 1, p. 504, and 2nd Session, 26th Congress, Vol. I, No. 1, p. 321.

[40] D. C. Bloomer in *Annals of Iowa,* Vol. IX, p. 526, is supported only

The city of Council Bluffs, so named in 1853, may lay claim to a tradition that as early as 1824 a French trader called Hart built his cabin on the bluffs above what later came to be known as Mynster Spring, within the present city limits. How long Hart traded there cannot be ascertained, but he must have maintained his post for some years, for the locality was always known among employees of the American Fur Company as "les côtes à Hart" or "Hart's Bluff". Francois Guittar, a Frenchman in the employ of the Astors and years afterward a resident of Council Bluffs, recalled having encamped in the timber there with his "companions de voyage" in the year 1827.[41]

Scarcely had the united tribes numbering a little over 2000 individuals set up their tepees in the bluff region of southwestern Iowa when their peace of mind was disturbed by fierce tribesmen from the north. Occasional hunting parties of Sioux from the Minnesota country pursued the chase southward and committed offences which threw the newcomers into considerable consternation, for they had not bargained on the hostility of others. To quiet their alarm and apprehensions Colonel Stephen Watts Kearny hastened from Fort Leavenworth in command of a body of dragoons, arriving on board the steamer "Antelope".

by Fulton's *The Red Men of Iowa,* p. 170. Mr. Bloomer in *Annals of Iowa* (Third Series), Vol. II, pp. 480, 488, asserts that the Indian agency was established in 1838 at a place known as Trader's Point and later Kanesville. This is certainly incorrect and confusing because the latter place-name was supplanted by the name "Council Bluffs", a town which lay six or seven miles north of what was known as Trader's Point.

The name "Council-bluff" was first applied to a bluff on the Nebraska side of the Missouri River, then to the Indian agency at Bellevue on the Nebraska side, then to the subagency at Trader's Point, and was perpetuated when the present city of Iowa was incorporated in 1853.— *Proceedings and Collections of the Nebraska State Historical Society,* Vol. XV, p. 8.

41 D. C. Bloomer in *Annals of Iowa,* Vol. IX, p. 526, which information is repeated in *History of Mills County, Iowa,* p. 172. The name "les côtes à Hart" can be found in a log-book quoted on page 146 of Chittenden's *Early Steamboat Navigation on the Missouri River,* Vol. I.

They at once erected a block-house twenty-four feet square and set up barracks and tents on ground near by. This military stronghold, such as it was, came to be known as "Camp Kearney near Council Bluffs".[42]

This crude house of logs, however, was destined to play no great part in the military annals of the West, but rather to diffuse the arts of peace and the teachings of the Christian religion, for it very soon became the scene of the first missionary enterprise of the Jesuits of St. Louis and especially of a man who achieved distinction as "the greatest and most practical missionary who has ever labored among the Indian tribes of the United States." Starting the humble St. Joseph mission among the Pottawattamies and later penetrating to Indian tribes on the Upper Missouri and beyond to the Pacific, the St. Louis members of the Society of Jesus led by Father Pierre Jean de Smet gained enduring fame for themselves and their Master.[43]

Father de Smet[44] left St. Louis on the steamer "Howard" on May 10, 1838, accompanied by Fathers Verhaegen and Helias. Near Fort Leavenworth he bade good-bye to his companions and continued the journey with Father Felix Verreydt and Brother Mazelli on board the "Wilmington". They encountered the usual difficulties of Missouri River navigation, stopped several hours at the village of the Ioways in Kansas, talked with their chief Mahaska or

[42] *House Executive Documents,* 2nd Session, 28th Congress, No. 52, p. 94.

[43] "The history of the Catholic missions in the Rocky Mountains is little more than a record of the work of Father P. J. De Smet, S. J., one of the most interesting and noteworthy characters in the annals of the West."—Chittenden's *American Fur Trade of the Far West,* Vol. II, p. 648.

Four large volumes have been prepared by Messrs. Chittenden and Richardson on *Father de Smet's Life and Travels among the North American Indians.* See Vol. I, p. 8.

[44] This remarkable man was born at Termonde, Belgium, in the year 1801 and received his education in a religious school at Malines. At the age of twenty, in company with five other young men, in response to a call to labor among the Indians he crossed the Atlantic in 1821. He spent two years in the

White Cloud, and farther on visited the Otoe village at Bellevue, where they met Rev. Moses Merrill.[45] On the afternoon of the last day of May the missionaries arrived among the Pottawattamies: Father de Smet's letter in French to his superior deserves to be quoted with reference to this event:[46]

We arrived among the Potawatomies on the afternoon of the 31st of May. Nearly 2,000 savages, in their finest rigs and carefully painted in all sorts of patterns, were awaiting the boat at the landing. I had not seen so imposing a sight nor such fine-looking Indians in America: the Iowas, the Sauks and the Otoes are beggars compared to these. Father Verreydt and Brother Mazelli went at once to the camp of the half-breed chief, Mr. Caldwell, four miles from the river. We were far from finding here the four or five hundred fervent Catholics we had been told of at the College of St. Louis. Of the 2,000 Potawatomies who were at the landing, not a single one seemed to have the slightest knowledge of our arrival among them, and they all showed themselves cold or at least indifferent toward us. Out of some thirty families of French half-breeds two only came to shake hands with us; only a few have been baptized. All are very ignorant concerning the truths of religion;

Jesuit novitiate in Maryland, then journeyed with twelve others to Florissant, Missouri, not far from St. Louis, and there established the second novitiate of the Society of Jesus in the United States. From their small log cabins sprang the now splendid St. Louis University, founded in 1829.

De Smet was ordained a priest in 1827, but several years more were to elapse before he could realize his ambition to labor among the American natives. The years 1833–1837 he spent in Europe to recruit his health and secure supplies for the infant University. Not until 1838 did he begin the missionary labors which extended over the remainder of his life — until 1873. See Chittenden and Richardson's *Father De Smet's Life and Travels,* Vol. I, pp. 6–14.

45 About the Baptist missionary Father de Smet wrote: "The $600 that the Government grants every year to this reverend gentleman; the aid which the Boston propaganda sends his Reverence; and a fine farm . . . . are so many items which prevail on him to remain among them; for in the five years that he has been here he has not yet baptized a single person. Indeed, that is all that this horde of apostles of Protestantism, with which all the Indian territory is flooded, are doing."— Chittenden and Richardson's *Father De Smet's Life and Travels,* Vol. I, pp. 155, 162.

46 Chittenden and Richardson's *Father De Smet's Life and Travels,* Vol. I, p. 157.

they can't even make the sign of the cross nor say a pater or an ave. This as I suppose, is the cause of their great reserve toward us. They change wives as often as the gentlemen of St. Louis change their coats.

"Billy" Caldwell, chief of the united nation, received the "Black Robes" very favorably and showed his willingness to assist them. The half-breeds generally were declared to be "affable and inclined to have their children instructed," while the Indians themselves gave many tokens of affection, paying their respects to the missionaries every day. The chief presented them with three cabins and Colonel Kearny donated the fort, about which Father de Smet could report later:

> We have a fine little chapel, twenty-four feet square, surmounted with a little belfry; four poor little cabins besides, made of rough logs; they are fourteen feet each way, with roofs of rude rafters, which protect us from neither rain nor hail, and still less from the snow of winter.[47]
>
> On the day of Corpus Christi I put up a cross on the roof, and while I climbed the ladder to put it in place, and my flag floated from a hole in my breeches, Father Felix beheld the devil clap his tail between his legs and take flight over the big hills.[48]

Father de Smet and his companions spent their days instructing the children, baptized them from time to time, and once a week visited each of the different bands of the nation, living from five to twenty-five miles apart. One village was located as far east as the present town of Lewis in Cass County. Thus the "Black Robes" taught the children and preached to the elders through an interpreter. But they complained of the Indian scourge as follows:

[47] Chittenden and Richardson's *Father De Smet's Life and Travels,* Vol. I, p. 168, written July 20, 1838.

[48] Chittenden and Richardson's *Father De Smet's Life and Travels,* Vol. I, p. 158, written June, 1838.

For a short account of the block-house chapel see *Annals of Iowa* (Third Series), Vol. II, pp. 549–552.

Providence has placed us at some distance from any great number of these savages, for since the arrival of the steamboat, which brought a large quantity of liquor, they are quarreling and fighting from morning till night. When they are sober the most perfect harmony prevails throughout the nation: whole years often pass without quarrels. They are not at all addicted to the pernicious practice of slander; the most corrupt regard a slanderer with disdain, while the more respectable avoid him as they would a snake. No one would dare make accusations against those who enjoy a good reputation, and as for the good-for-nothings, they do not lower themselves so far as to speak of them.[49]

The Fathers were consoled in July, 1838, by the admission of one hundred and eighteen children to their little school and the baptism of one hundred and five. They received a call from the head chiefs of the Pawnee Loups of the Big Platte River, who bitterly assailed the Protestant missionary[50] among their people and invited de Smet to visit them. Two chiefs of the Omahas with some forty warriors also crossed the river to St. Joseph Mission and treated the Fathers to a calumet or friendship dance.[51]

Father de Smet wrote that the architecture of an Indian village was quite as outlandish as their dancing. To quote: "Imagine a great number of cabins and tents, made of the bark of trees, buffalo skins, coarse cloth, rushes and sods, all of a mournful and funereal aspect, of all sizes and shapes, some supported by one pole, others having six, and with the covering stretched in all the different styles imaginable, and all scattered here and there in the greatest confusion, and you will have an Indian village."[52]

49 Chittenden and Richardson's *Father De Smet's Life and Travels,* Vol. I, pp. 158, 159.

50 Probably Rev. John Dunbar, and Samuel Allis, who later became a citizen of Iowa.— See *History of Mills County, Iowa,* p. 643.

51 Chittenden and Richardson's *Father De Smet's Life and Travels,* Vol. I, pp. 164, 167.

52 Chittenden and Richardson's *Father De Smet's Life and Travels,* Vol. I, p. 168.

In August, 1838, the Protestant missionary at Bellevue reported visits from two daughters of "Mr. Harding" and also from "Mr. Smith, a Catholic priest from the Putawatomies".[53] Early in the spring of 1839 occurred an event of considerable importance in this wild region: Jean Nicolas Nicollet, a celebrated Frenchman employed by the United States government to map out the Upper Mississippi Valley, accompanied by his assistant, Lieutenant John C. Frèmont, a German botanist, and Major John F. A. Sanford of the American Fur Company, arrived on the steamboat "Antelope" from St. Louis. Other passengers on board were various employees of the company, among whom were sixty or seventy creoles, Canadians, and half-breeds, "who, in the fur country, are dubbed 'pork-eaters' until a more hazardous and useful course of life entitles them to the high qualification of voyageurs."[54]

Such was the group which Father de Smet joined on April 29, 1839, starting out on his mission to establish a durable and advantageous peace between the Pottawattamies and the Sioux, for in the words of the ambassador himself: "Our savages have lived, during the last two years, in a terrible dread of this numerous and warlike nation; lately, also, two of our people have been massacred." The "celebrated Mr. Nicollet" presented Father de Smet with several instruments — thermometer, barometer, compass, etc., to take observations during the summer, to supplement those he was making in the upper country. To quote from Nicollet's report: "We stopped before night at the foot of the bluff on which is Floyd's grave; my men replaced the signal, blown down by the winds, which marks the spot and hallows the memory of the brave sergeant". On May 11th Father de Smet disem-

53 *Transactions and Reports of the Nebraska State Historical Society,* Vol. IV, pp. 188, 189.

54 *House Executive Documents,* 2nd Session, 28th Congress, No. 52, pp. 41, 42.

barked at the mouth of Vermilion River in the present State of South Dakota. There he was hospitably feasted and entertained by the Yankton Sioux and succeeded in obtaining promises to keep the peace. After urgently inviting them to visit the Pottawattamies he returned down the Missouri in a canoe piloted by two skillful paddlers.[55]

In determining the altitude of places in the upper Mississippi Valley Nicollet acknowledged the services rendered by "the Revs. P. J. Smedt and Felix Werreydt, missionaries among the Pottawattamies at Camp Kearney, near Council Bluffs, on the Missouri." It is a noteworthy fact that of the two fixed barometer stations which Nicollet established north of St. Louis one was conducted by the Jesuit Fathers. In the words of the official government report, "Mr. De Smedt . . . . soon made himself acquainted with the manner of taking observations; and proved it, in furnishing me with a four months series, made with a care that the most scrupulous examination could only confirm, and embracing the period between the 17th of May and 17th of September, 1839".[56]

From May 10th until December, 1839, Father de Smet kept a journal of the most noteworthy events in the neighborhood, "of a rather gloomy nature, disgusting and discouraging". His indictment of the traders and especially of the American Fur Company may be gathered from the following entry under date of May 30:

> Arrival of the steamer *Wilmington* with provisions. A war of extermination appears preparing around the poor Potawatomies. Fifty large cannons have been landed, ready charged with the most murderous grape shot, each containing thirty gallons of whiskey,

[55] Chittenden and Richardson's *Father De Smet's Life and Travels,* Vol. I, pp. 179, 180, 186, 189, 190; and *House Executive Documents,* 2nd Session, 28th Congress, No. 52, p. 34.

[56] *House Executive Documents,* 2nd Session, 28th Congress, No. 52, pp. 94, 98, and Father de Smet's table of calculations on p. 99.

brandy, rum or alcohol. The boat was not yet out of sight when the skirmishes commenced. After the fourth, fifth and sixth discharges, the confusion became great and appalling. In all directions, men, women and children were seen tottering and falling; the war-whoop, the merry Indians' songs, cries, savage roarings, formed a chorus. Quarrel succeeded quarrel. Blows followed blows. The club, the tomahawk, spears, butcher knives, brandished together in the air. Strange! Astonishing! only one man, in this dreadful affray, was drowned in the Missouri, another severely stabbed, and several noses lost. . . . A squaw offered her little boy four years old, to the crew of the boat for a few bottles of whiskey. I know from good authority, that upwards of eighty barrels of whiskey are on the line ready to be brought in at the payment [annuity paid to the Indians by the government].

May 31. Drinking all day. Drunkards by the dozen. Indians are selling horses, blankets, guns, their all, to have a lick at the cannon. Four dollars a bottle! Plenty at that price!! Detestable traffic.[57]

In the month of April, 1839, the arrival of a new sub-agent in the person of Stephen Cooper checked the liquor sellers. Elijah Stevens became blacksmith, John La Framboise his assistant, and Claude La Framboise interpreter. In August came the "Antelope" with more whiskey and a few days later the "St. Peter's" with $90,000 in annuities, which were distributed to the Indians amid great glee and much activity on the part of traders to obtain their credits. Then once more liquor was "rolled out to the Indians by whole barrels; sold by white men even in the presence of the agent. Wagon loads of the abominable stuff arrive daily from the settlements, and along with it the very dregs of our white neighbors and voyageurs of the mountains, drunkards, gamblers, etc., etc."[58]

[57] Chittenden and Richardson's *Father De Smet's Life and Travels,* Vol. I, pp. 172, 173, 184, 185.

[58] Chittenden and Richardson's *Father De Smet's Life and Travels,* Vol. I, pp. 174, 175. See *Senate Documents,* 1st Session, 26th Congress, Vol. IV, No. 126, p. 5.

When Father de Smet wrote his last letter from the Pottawattamie mission in December, 1839, he reported that Mr. Hardin's family was well, and that Mrs. Scugin and her son Ramsay, Miss Henrietta, Messrs. Dick and Allen were below at Westport, Missouri. Twenty-three Indian couples had been married, one hundred and sixty-two children and eighty adults had been baptized, mostly half-breeds, and forty had been admitted to the Lord's Supper. The chapel was tolerably well attended on Sundays, though most of the Indians were then absent on hunting expeditions. Father de Smet concluded his letter by telling of a visit then being paid by the Yankton Sioux:

> We have forty of them in our bluffs, and of their bravest warriors, caroling together with the Potawatomies, and behaving towards each other like true brethren and friends. Last night they honored us with their great pipe-dance, and gave a serenade before every wigwam and cabin. They appeared to be very much pleased with all the people here.[59]

On the 18th of September had occurred an event which proved to be fraught with much significance in the life of Father de Smet: a deputation from the Flathead Indians who dwelt high up on the Missouri stopped at St. Joseph Mission on their way to St. Louis to make a request for missionaries or "Black Gowns". The Flatheads proceeded to St. Louis and made application to the bishop as they had done repeatedly before. Their persevering entreaties were not rewarded until Father de Smet volunteered to undertake the task alone. He accompanied them home from St. Louis in March, 1840, and thus ended his missionary labors in the Iowa country, but not his interest. In the autumn of that year, on his return from the Far Northwest, he encountered at Fort Vermilion a Santee Sioux war-party "just back from an excursion against my dear Potawatomies",

[59] Chittenden and Richardson's *Father De Smet's Life and Travels,* Vol. I, pp. 177, 178.

bringing one scalp with them on the end of a long pole. In the midst of their dance of victory Father de Smet appeared, and in council rebuked them for breaking their peace promise: they begged him "to assure the Potawatomies of their sincere resolution to bury the hatchet forever."[60]

Continuing southward in a canoe piloted by an Iroquois half-breed amid floating ice, Father de Smet was at length compelled to stop at the Council Bluffs. There in his "budding mission", he was grieved to see the ravages caused by the traffic of unprincipled men: "drunkenness, with the invasions of the Sioux on the other hand, had finally dispersed my poor savages." Fathers Verreydt and Christian Hoecken, however, still busied themselves among some fifty families that had "the courage to resist these two enemies." Indeed, after the murder committed in the month of September, 1840, Colonel Kearny had to come with a force of dragoons and established a certain degree of confidence among the Pottawattamies who then feared a general descent upon them by the Sioux. After a brief visit with them, Father de Smet made the remainder of his journey on horseback to Independence and by stage to St. Louis.

In the month of October, 1840, the sub-agency buildings still stood opposite the mouth of the Big Platte River. The agent reported that there was no farmer to teach the two thousand Pottawattamies agriculture. He also credited the Jesuit priests with having done considerable service as physicians when sickness became prevalent immediately after the Indians' return from the spring hunt. One year later the agent, Cooper, had been succeeded by a man named Deaderick. He expressed alarm because the Pottawattamie warriors were seeking to engage several tribes for a joint

[60] Chittenden and Richardson's *Father De Smet's Life and Travels,* Vol. I, pp. 256, 257, 270.

expedition against the Sioux; there was no farmer, no teacher, and not enough blacksmiths to do all the work; the whiskey traffic was awful; and Chief Billy Caldwell was dead.[61]

The Pottawattamie mission at Council Bluffs lost its inspiration with the departure of Father de Smet: it is of particular interest in Iowa history and that of the West because here commenced that famous series of letters which made Father de Smet's name "well known throughout the world. . . . They were probably not intended for publication for they lack something of the clerical dignity in which the writer then doubtless thought he ought to appear in public; but they are all the better for the omission and are equal, in force of expression, to anything he afterward produced." His missionary enterprise lasted but a few months longer, for in the month of October, 1841, the Indians were without teachers and one year later Fathers Verreydt and Hoecken were engaged in eastern Kansas.[62]

That "Council Bluffs subagency" opposite the outlet of the Big Platte River was more than a mere agency can be gathered from the diary of John C. Frèmont who had just returned from his first expedition to the Rocky Mountains. Under date of October 1, 1842, he wrote: "I rose this morning long before daylight, and heard, with a feeling of pleasure, the tinkling of cow-bells at the settlements on the opposite side of the Missouri."[63]

[61] Chittenden and Richardson's *Father De Smet's Life and Travels,* Vol. I, p. 258; and *Senate Documents,* 1st Session, 26th Congress, No. 1, p. 56; 2nd Session, No. 1, pp. 321, 322, 377; and 2nd Session, 27th Congress, Vol. I, No. 1, pp. 281, 357.

Father de Smet later returned to the Flatheads of the Upper Missouri region and traveled extensively among the western tribes, beloved and respected by them all.

[62] Chittenden and Richardson's *Father De Smet's Life and Travels,* Vol. I, p. 16. See also *House Executive Documents,* 3d Session, 27th Congress, No. 2, pp. 487, 488. For references to the mission see Kempker's *The Catholic Church in Council Bluffs, Iowa,* pp. 1–6.

[63] Frémont's *Memoirs of My Life,* p. 162.

In April, 1842, a company of dragoons commanded by Captain J. H. K. Burgwin was despatched by steamboat from Fort Leavenworth to the Pottawattamie country. This time there were strong reasons to expect the breaking out of war between the Sioux and the united nation. Therefore, "prompt and rigorous measures were adopted to prevent this outbreak, which, if it had commenced, would have involved consequences of the most hazardous character to the combatants; would probably have embroiled neighboring tribes, and could have been arrested by the Government only at great cost." Accordingly, Fort Croghan was constructed as a temporary post on May 31, 1842, midway between the outlets of the Boyer and the Mosquito rivers, near the southwest corner of the present city of Council Bluffs. The united tribes were now assured of protection while the Sioux were warned to desist from the threatened attack.

The troops of the new fort also helped to suppress illicit liquor traffic with the Indians, assisting the resident agent in the enforcement of the intercourse laws. At this time every accessible tribe of the Indian population of the United States fell a prey to the scum and refuse of American society. To this depraved and criminal element belonged deserters from fur-trading posts on the Upper Missouri, renegades from Santa Fé, discharged and deserting soldiers, and fugitives from justice. With such persons around, the Federal government could not hope to uplift the Indian. And with such private traders, all licensed traders had to reckon.[64] At least one cargo of liquor was

[64] In a short sketch of Fort Croghan in *Annals of Iowa* (Third Series), Vol. III, p. 471, the writer asserts that the name first given to the post was "Camp Fenwick". Chittenden is, of course, mistaken when he declares in his *American Fur Trade of the Far West,* Vol. III, p. 950, that Fort Croghan "stood a little above the present Union Pacific bridge in Omaha".

Senate Documents, 3d Session, 27th Congress, No. 1, Chart, and pp. 210, 387; 1st Session, 28th Congress, No. 1, p. 395; and *House Executive Documents,* 3d

smuggled past the garrison at Fort Croghan. Liquor was the one article above all others which the traders considered indispensable to the promotion of their business interests: seldom did they fail to smuggle their casks into the Indian country. The American Fur Company was no insignificant offender in this respect, being forced to it in order to compete on an equal footing with private traders.

The "Omega" had got safely past Bellevue without being subjected to inspection and had reached Hart's bluff when "a couple of shots were fired across her bow". She brought to at once and made for the shore. Captain Sire was then presented with a polite note from Captain Burgwin apprising him that his ship must await inspection. On board were John James Audubon and his party of scientists, who had a government permit to carry with them a certain quantity of liquor. To the lieutenant who had stopped the ship he "expressed a desire to visit the camp, and the lieutenant detailed a dragoon to accompany him." To quote further from Mr. Chittenden's story:

> The great naturalist rode four miles to call upon an obscure army officer whom he knew he could see in a short time by waiting at the boat. The officer was overwhelmed at the honor of the visit, and when Audubon offered to present his credentials he politely and gallantly replied that his name was too well known throughout the United States to require any letters. Audubon says of the occasion: "I was on excellent and friendly terms in less time than it has taken me to write this account of our meeting." Between his entertaining conversation and the shooting of some birds he contrived to detain the Captain for a good two hours before they returned to the boat.

Meanwhile the boatmen had not been idle. In the hold of the ship they had loaded all casks of liquor on small cars which traveled on a circular track.

Session, 27th Congress, No. 2, p. 424; and 1st Session, 28th Congress, Nicollet's map, p. 7.

When Captain Burgwin arrived in Audubon's company, he was received most hospitably and treated to a luncheon, in which was included as a matter of course, a generous portion from the private store embraced in Audubon's "credentials". By this time the young Captain was in most excellent temper and was quite disposed to forego the inspection altogether. But the virtuous Sire would not have it so. "I insisted, as it were," says the worthy navigator in his log of May 10, "that he make the strictest possible search, but upon the condition that he would do the same with other traders."

Needless to say, the liquor got past, for while the two captains were groping along by the light of a dim candle, peering into nooks and corners, some boatmen were slowly shoving the cars around the tramway behind the inspector so as to keep them out of his reach as he went. So the American Fur Company's agents went on their way rejoicing. "But woe to the luckless craft of some rival trader who should happen along with no Audubon in the cabin and no tramway in the hold."[65]

In a journal of the voyage Audubon chronicled the visit to Fort Croghan, but did not record the incident so well described above. Concerning the fort itself, he wrote that it "was named after an old friend of that name, with whom I hunted raccoons on his father's plantation in Kentucky, thirty-five years before. His father and mine were well acquainted, and fought together with the great Generals Washington and Lafayette, in the Revolutionary War against 'Merry England.' The parade ground here had been four feet under water in the late freshet." He also recorded the fact that the officers of the post were nearly destitute of provisions the year before, and sent off twenty dragoons and twenty Indians on a buffalo hunt; and that they killed, within eighty miles of the fort, fifty-one buffaloes, one hundred and four deer, and ten elks.[66]

[65] Chittenden's *American Fur Trade of the Far West,* Vol. II, pp. 678–681.

[66] *Life of John James Audubon,* pp. 420, 421.

Sub-agent Richard S. Elliott, who had followed John B. Luce in March, 1843, made a lengthy report in the fall of that year. He conceived the idea that although the government had stationed a company of dragoons there, being under tacit obligation to protect the Pottawattamies, yet if the troops were withdrawn, the Indians would have additional reason to make a treaty to cede their lands to the government the coming spring or summer. The agent took care to state that he offered this not as a recommendation but as a suggestion only. Late in September, 1843, the dragoons marched away.[67]

In the spring of 1843, it will be remembered, began the first united movement of emigrants from the settled States to distant Oregon. Among the ten-year-old pioneers of Iowa Territory also there arose much interest, ending sometimes in the organization of Oregon emigration societies. The newspapers of eastern Iowa, then the only settled portion of the Territory, advertised and recommended the advantages of Burlington as a suitable starting-point on account of its abundance of necessary supplies, and an excellent and very commodious steam ferry-boat across the Mississippi. Emigrants were urged to choose the short and easy route from Burlington by way of the Skunk and the Des Moines rivers to Council Bluffs, a distance of 350 miles, and cross the Missouri on a ferry at or near that point.[68]

In the last week of May, 1843, fourteen or fifteen ox-wagons and a number of young men on horseback passed through Iowa City, headed for the Far West. Iowans of that day prophesied nothing but danger, privation, suffering, and death by famine or savage foes. The adventurers proceeded to Fort Des Moines, then just established at the Raccoon Fork of the Des Moines River, where they expected

67 *Senate Documents*, 1st Session, 28th Congress, Vol. I, No. 1, pp. 391–396.

68 *Iowa Capital Reporter*, March 25, 1843.

additions to their company. From there they intended to direct their course to Council Bluffs.[69] How many other bands of emigrants crossed Iowa Territory and followed the northern route to the West must be left to conjecture, and whether much of a trail was made across the Iowa prairies at this time cannot be ascertained. Many Iowans, however, were seized with the Oregon fever at this early date and the "Oregon trail" leading west of Fort Des Moines into the uninhabited portion of Iowa Territory was plainly visible and even used by a force of dragoons under Captain Allen in the spring of 1844.

Captain James Allen, commandant at Fort Des Moines, led a dragoon expedition up the Des Moines River through the Sioux Indian country in what is now the southwestern corner of the State of Minnesota to the Big Sioux River. This body of horse troops consisting of fifty-seven men marched southward down the beautiful valley of the Big Sioux and camped near the picturesque falls where the city of Sioux Falls now stands. On the 14th of September, 1844, they continued their course over a rough country, cut up by various brooks in what is to-day Lyon County. Captain Allen recorded in his *Journal* that they "encamped at the mouth of one of them, and killed a bull standing across the river, six men firing at him by volley, and each ball taking effect"; and that buffalo had been in sight almost continuously since they struck the Big Sioux River so that they might have killed hundreds.

On September 15, they ascended some high bluffs, then made their way over smooth prairie, and in the afternoon struck what is now the Rock River in Sioux County, a clear little stream which they followed to its mouth to find a trading-house which the Sioux Indians had declared stood there. The dragoons pitched camp but saw no signs of a

[69] *The Iowa Standard,* June 1, 1843.

trading post, no trails nor any evidence of near habitation. For the next four days they drove their weary horses through the western part of Plymouth County, met with all sorts of trouble, declared that "the romance of marching through a wilderness country is much abated", and then turning eastward, completed their journey back to the advance post of civilization, Fort Des Moines. Captain Allen and his dragoons were the first white men who set foot in Iowa's northwestern corner, so far as the records show.[70]

Not until the summer of 1845, it seems, were the original buildings of the Council Bluffs sub-agency abandoned and a new location found at a point opposite Bellevue, twenty miles below the mouth of the Boyer River and about thirty-five miles from the Missouri line. This place, long called Trader's Point, also went by the name of "Point Aux Poulos", and consisted of three trading-houses.[71]

The year 1846 was marked by a treaty for the departure of one race and by the permanent advent of another: before the exit of the Pottawattamies came the Mormons fleeing from their enemies in the State of Illinois. These refugees traversed the southern portion of the Territory of Iowa, through the settled counties and then the remaining two-thirds of the distance over a roadless, bridgeless, unpeopled stretch of country. East of their settlement at Mt. Pisgah (now Union County) they came upon traces of the Indians, for a Mormon elder wrote on May 11: "No game or wild animal of any description to be seen, having been thinned out by a tribe of Indians, called Pottawattamies, whose trails and old camping-grounds were to be seen in every direction."[72]

70 *House Executive Documents,* 1st Session, 29th Congress, No. 168, which is reprinted in THE IOWA JOURNAL OF HISTORY AND POLITICS, Vol. XI, pp. 73–108. See pp. 84, 101–105.

71 *Senate Documents,* 1st Session, 29th Congress, Vol. I, No. 1, pp. 546–554.

72 *Journal of History* (Lamoni), Vol. II, p. 189.

The Mormons encountered no opposition: they passed the Indian village in what is now western Cass County, and when they reached the Council Bluffs agency in June, they were welcomed in a most friendly manner, winning the hearts of the Indians by giving a concert at their agent's residence. At a council their chief made an address in which he gave the newcomers "permission to cut wood, make improvements, and live where they pleased on their lands." Opposite Bellevue, at Trader's Point, the Indians had cut an approach to the river and established a ferry: they now did a big business carrying over, in the flat-bottom boats, the families and wagons, and the cows and sheep of those Mormons who were to spend the next few months at Winter Quarters (on the site of Florence, Nebraska). Many Mormon families, however, tarried permanently in what later became Mills and Pottawattamie counties.[73]

The treaty made and concluded between the United States and the Pottawattamies at the agency on June 5th, 1846, was ratified by the Senate and formally proclaimed in July as the law of the land. The Indians surrendered all their lands in the Territory of Iowa in return for a tract of land upon the Kansas River, and on being furnished with wagons, horses, and other means of transportation agreed to remove to their new homes within two years.[74] The sub-agent, R. B. Mitchell, expressed a belief that they would depart during the winter or spring. In September he reported that nearly one-tenth of the Pottawattamies had died that year.[75]

During the winter and spring the two government blacksmiths were constantly engaged in repairing guns, traps, and other implements required for their hunting expedi-

[73] Linn's *The Story of the Mormons,* pp. 367, 375, 376.

[74] Kappler's *Indian Affairs,* Vol. II, pp. 413, 414.

[75] *House Executive Documents,* 2nd Session, 29th Congress, Vol. I, No. 4, pp. 285, 300.

tions, and during the summer and autumn of 1847 they repaired wagons, and made log-chains and other articles for the emigration southward. Their miller was busy grinding and sawing, and "contributed largely to their wants in breadstuffs." Some of the Pottawattamies had been down to examine their new country and reported unfavorably. Thomas H. Harvey, Superintendent of Indian Affairs, came all the way from St. Louis to the Council Bluffs sub-agency to be present at the annual payment of the Indians and urged them to remove at once. In October they set out in large parties for their new homes, crossing the Missouri River at different points. By the winter of 1847, with the exception of a small band which determined to remain and hunt about the headwaters of the Des Moines River, all the Pottawattamies had taken leave of their Mormon neighbors, then the only settlers in the western part of the State of Iowa, and had vanished one stage farther on the journey westward, thus making room for the permanent occupation of their hunting-grounds by enterprising emigrants from the East.[76]

JACOB VAN DER ZEE

THE STATE HISTORICAL SOCIETY OF IOWA
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[76] *Senate Documents,* 1st Session, 30th Congress, Vol. I, pp. 738, 837, 877. Strictly speaking the first settlers in western Iowa were the men who in 1840 and almost every year thereafter founded homes in the southern townships of what many years later became Fremont County, Iowa. These pioneers believed they were actually citizens of the State of Missouri because the boundary then was declared to be ten miles north of the present boundary. Had it not been for Missouri's mistake the survey and entry of lands as early as 1840 would have been prevented in territory still owned and occupied by the Pottawattamie Indians. See Howe's *Annals of Iowa,* Vol. II, p. 38.

HISTORY OF THE CODES OF IOWA LAW

V

THE CODE OF 1897

The last official code of the State of Iowa, the *Code of 1897,* dates in reality from the year 1894 when the Twenty-fifth General Assembly created a commission to revise and codify the laws.[1] The need for such a codification had been apparent for several years. The *Code of 1873* had long been out of print and was not even used to any considerable extent by people who desired to consult the laws. Two private codes had made their appearance in the eighties and had come into general use. In fact, there was no official code to which the citizens of Iowa could refer to learn all the law on any given subject, for since the year 1873 the statutes were scattered in several volumes of session laws.[2]

In addition to the above reasons for the preparation of the *Code of 1897* there were others of a more immediate nature. During the legislative session of 1892 a large number of petitions had been presented to the General Assembly praying for a change in the revenue laws. A commission was accordingly created by the Twenty-fourth General Assembly which suggested changes to be made in these laws.[3] Then, too, various attempts had been made in 1894

[1] *Laws of Iowa,* 1894, pp. 111, 112.

[2] For an article on *The Code of 1873,* see Powell's *History of the Codes of Iowa Law* in THE IOWA JOURNAL OF HISTORY AND POLITICS, Vol. XI, pp. 166–220.

[3] These petitions are mentioned in *House Journal,* 1892, pp. 78, 84, 85, 106–108, 115, 120, 132, 144, 145, 146, etc. The act creating the Commission may be found in *Laws of Iowa,* 1892, pp. 100, 101. See also *Report of the Revenue Commission,* 1893.

to codify and revise the statutes relating to particular subjects.[4] Believing that the laws should not be amended in piece-meal fashion, but that the time had arrived for a general and complete amendment, a Code Commission of five members was created.

CREATION OF THE CODE COMMISSION

The Twenty-fifth General Assembly convened in Des Moines on the eighth day of January, 1894.[5] In the House of Representatives Mr. James H. Trewin, representing the county of Allamakee, appears to have been the champion of codification. On January 16, 1894, Mr. Trewin offered the following concurrent resolution:

> *Resolved by the House of Representatives, the Senate concurring,* That a commission consisting of seven members be appointed for the purpose of codifying the laws of the State of Iowa.[6]

Shortly afterward Mr. Trewin introduced a second bill, House File No. 186, which was "a bill for an act to create a commission to revise and codify the laws of Iowa and defining its duties and providing for the publication and distribution of its report."[7]

Previously, however, on January 24, 1894, Mr. M. D. Reed of Exira had introduced House File No. 108, which was "a bill for an act providing for a commission to revise the school laws of the State."[8] This bill was referred to the Committee on Schools and Text-books which reported on February 1st through its chairman, S. J. Van Gilder, recommending its passage.[9] When the above bill was considered

4 *Senate Journal,* 1894, pp. 85, 117, 275. See also, *House Journal,* 1894, pp. 50, 462, 463, 883, 884.

5 *Iowa Official Register,* 1911–12, p. 125.

6 *House Journal,* 1894, p. 60.

7 *House Journal,* 1894, p. 112.

8 *House Journal,* 1894, p. 94.

9 *House Journal,* 1894, p. 174.

Mr. Trewin moved that his bill, House File No. 186, be substituted for the Reed bill and the motion carried by the vote of 72 to 20.[10] The bill passed the Senate on March 8, 1894.[11]

On March 22, 1894, Mr. Trewin offered a resolution which was adopted, calling upon the House to elect the two members that the bill provided should be elected by the House.[12] The resolution further declared that of the two men elected, one should be a Republican and the other a Democrat. Accordingly on the 28th of March, 1894, Mr. Trewin offered the following resolution which was unanimously adopted:

> *Resolved,* That John Y. Stone and Charles Baker be and are hereby elected on the part of the House Code Commissioners of Iowa, as provided by the act creating a commission to revise and codify the laws.[13]

On the last day of the session an unsuccessful attempt was made in the House to refer two of the most important measures pending before the General Assembly to the Code Commission, as the House did not have sufficient time to adequately consider them.[14]

In the Senate on January 26, 1894, Senator James H. Jamison of Osceola introduced Senate File No. 89, which provided for a "commission to revise and codify the laws of Iowa".[15] Nearly a month later, on the 14th of February Mr. M. W. Harmon of Independence, the chairman of the Senate Judiciary Committee, reported the bill back and among the changes suggested was that the following section should stand in place of the original:

> That a commission consisting of five persons learned in the law three of whom shall have been engaged in actual and continuous

[10] *House Journal,* 1894, pp. 367, 368. *Senate Journal,* 1894, p. 388.

[11] *House Journal,* 1894, p. 594.

[12] *House Journal,* 1894, p. 766.

[13] *House Journal,* 1894, p. 861.

[14] *House Journal,* 1894, pp. 1010, 1011.

[15] *Senate Journal,* 1894, p. 72.

practice of law for the ten years last past; two of said commissioners shall be appointed by the House of Representatives, one by the State Senate and two by the Supreme Court, be and is hereby constituted for the purpose of revising and codifying the laws of Iowa, with annotations, and reporting necessary and desirable changes to the Twenty-sixth General Assembly.[16]

On March 7, 1894, Senator Jamison called for the consideration of the above bill and upon its being read, he moved that the Trewin bill from the House be substituted in its stead, which motion carried,[17] as the Trewin bill had been already received in the Senate[18] and passed upon favorably by the Judiciary Committee.[19] On March 8, 1894, when the House bill was up for consideration, Senator J. R. Gorrell of Newton attempted to amend it by permitting one of the members of the Commission to be a person without legal education, but the amendment was lost,[20] and on its final reading the bill passed the Senate by the vote of 42 to 6.[21]

The act creating the Code Commission of 1897 is comparatively short but is very comprehensive and liberal in its provisions. The bill as finally enacted reads as follows:

SECTION 1. That a non-partisan commission consisting of five persons, two of whom shall be appointed by the house of representatives, one by the state senate and two by the supreme court, be and is hereby constituted for the purpose of revising and codifying the laws of Iowa and reporting necessary and desirable changes to the Twenty-sixth General Assembly. Each of said commissioners shall

16 *Senate Journal,* 1894, pp. 202, 203.

17 *Senate Journal,* 1894, p. 376.

18 *Senate Journal,* 1894, p. 238.

19 *Senate Journal,* 1894, p. 316.

20 *Senate Journal,* 1894, p. 387.

21 *Senate Journal,* 1894, p. 388.

The Senate referred some of its bills for more mature deliberation to the Code Commission.— See *Senate Journal,* 1894, pp. 505, 728, and 813. On pages 860–862 may also be found a list of statutes amended.

be learned in the law and three of them shall have been engaged in the actual and continuous practice of the law for the ten years last past.

Sec. 2. The said commissioners to be appointed by the house and senate, shall be selected before the final adjournment of the Twenty-fifth General Assembly, and the others shall be selected before the first day of June, A. D. 1894.

Sec. 3. Before entering upon the discharge of their duties, the members of said commission shall severally take and subscribe to an oath to be filed with the secretary of state to support the constitution of the United States and of the state of Iowa, and to faithfully and impartially perform the duties required of them by this act, according to the best of their knowledge and ability.

Sec. 4. Said commission shall carefully revise and codify the laws of Iowa, and shall rewrite the same and divide them into appropriate parts and arrange them under appropriate titles, chapters and sections; omit all parts repealed or obsolete, insert all amendments and make the laws complete. Said commission shall have power to transpose words and sentences, arrange the same into sections or paragraphs and number them, change the phraseology and make any and all alterations necessary to improve, systematize, harmonize and make the laws clear and intelligible. They shall omit from said revision all laws of a local or temporary character, those relating to the apportionment of the state into congressional, senatorial and representative districts, and all references to decisions, notes of their own report, or that of any former commission.

Sec. 5. Said commission shall enter upon the discharge of its duties on or before the first day of September, A. D. 1894, and its report showing what changes have been made, what statutes omitted and what amendments and further legislation it may deem necessary, shall be completed and printed before the first day of November, A. D. 1895. Each member-elect of the Twenty-sixth General Assembly shall be provided by the secretary of state with at least two copies of said report.

Sec. 6. Each member of said commission shall be allowed ten dollars ($10.00) per day for each and every day of not less than six hours necessarily and actually employed in the discharge of the duties of said commission, together with all necessary traveling

expenses, to be evidenced by vouchers duly verified and filed with the secretary of state.

Sec. 7. Said commission shall have the power to employ a clerk or stenographer at an expense of not more than five dollars per day and expenses when actually necessary in the discharge of the duties of the commission. The executive council shall audit all bills connected with the said commission, and when approved, the secretary of state shall draw orders on the auditor of state for the amounts so shown. The auditor in turn shall issue orders on the state treasurer, who shall pay the same out of any funds not otherwise appropriated.

Sec. 8. Vacancies in said commission on account of death, removal from the state, refusal or inability of any member to act, or for any other cause, shall be filled by the supreme court.

Sec. 9. This act being deemed of immediate importance shall take effect and be enforced [in force] from and after its passage and publication in the Iowa State *Register* and Des Moines *Leader,* newspapers published in Des Moines, Iowa.

Approved March 19, 1894.[22]

It will thus be seen that the powers of the Commissioners were very sweeping, for not only did they have the power to rewrite and rearrange, to transpose words and change the phraseology, but they also had the power to "make any and all alterations necessary to improve, systematize, harmonize and make the laws clear and intelligible." Under this last provision it appears that the Commission could propose new legislation when in its opinion such additional provisions would improve the law of the State.[23]

Supplemental to the above act there was passed a joint resolution which still further enlarged the powers of the Commission. During the closing days of the session a joint resolution was passed authorizing the Code Commission to appoint one or more persons,[24] not to exceed three in number who were to perform the following duties:

[22] *Laws of Iowa,* 1894, pp. 111, 112.

[23] *Laws of Iowa,* 1894, pp. 111, 112, Sec. 4.

[24] *Senate Journal,* 1894, pp. 819, 820.

To act as commissioners for Iowa to confer with similar commissioners appointed by other states of the Union, in devising and recommending to the various states for adoption provisions to promote uniformity of legislation in the United States, and that said commission to revise and codify the laws of Iowa, is hereby directed to consider any recommendations which may be made by the commissioners of the various states for the promotion of such uniformity of legislation and incorporate such recommendations into their report to the next General Assembly so far as they may deem the same to be wise and expedient.[25]

THE CODE COMMISSION

As noted above, the House of Representatives selected Mr. Charles Baker of Iowa City and Mr. John Y. Stone of Glenwood as its members of the Commission. The Senate appointed Mr. Emlin McClain of Iowa City, and the Supreme Court appointed Mr. H. S. Winslow of Newton and Mr. H. F. Dale of Des Moines.[26]

Judge Horace Spencer Winslow, who was the chairman of the Commission,[27] was a Republican in politics and was born on the eighteenth day of July, 1837. His education was received at the academy at Brandon, Vermont, and at the

[25] *Laws of Iowa,* 1894, pp. 206, 207.

In the *Report of the Code Commission* may be found the following statement concerning the delegates to this association: "By joint resolution of the two houses of the General Assembly the Commission was authorized to send three delegates to represent the state at the meeting of commissioners appointed by the various states to consider and recommend to their states for adoption uniform laws on some subjects as to which uniformity of legislation is desirable. H. O. Weaver, L. G. Kinne, and Emlin McClain were appointed and each attended sessions of such commissioners and some of their recommendations are embodied in the reported code, with an explanation in each case of the source from which such provisions come. This work is still in progress with a prospect of very beneficial results. It is recommended that that commission, consisting of the same or other members, be continued, and that an appropriation be made to pay their expenses and provide a fund to be used in paying the proper share of the necessary printing. Thus far the members have paid their own expenses."— *Report of the Code Commission,* pp. 6, 7.

[26] *Code of 1897,* Preface, p. iv.

[27] *Report of the Code Commission,* 1896, title page.

State National Law School at Poughkeepsie, New York. In addition, he attended the Ohio State and Union College at Portland, Ohio, and graduated therefrom on the first day of July, 1856. Shortly afterwards, Mr. Winslow located at Newton and began the practice of the law. In 1862 he was selected as District Attorney for the Sixth Judicial District, which position he filled until 1866. From 1869 until 1870 he served as a judge on the Circuit Court and from 1875 until 1878 as a judge of the District Court.[28] He died on December 11, 1899.[29]

The Secretary of the Commission was Mr. Charles Baker of Iowa City, who was born at Saratoga, New York, on January 18, 1843. At an early age he removed to Wisconsin and served from 1861 until the close of the Civil War in Company "I" of the Fourth Wisconsin Volunteer Infantry. After the close of the war he removed to Iowa City, where he studied law and later located. Mr. Baker died at Iowa City on July 1, 1910.[30]

John Y. Stone of Glenwood, one of the House appointees to the Commission, was also born in 1843, on the twenty-third day of April, near Springfield, Illinois.[31] In 1856 he removed to Iowa and later, during the war, enlisted in the Fifteenth Iowa Volunteer Infantry. He served in the House of Representatives during the Twelfth, Thirteenth, Sixteenth, and Seventeenth General Assemblies, acting as Speaker in the year 1878; and in the Senate during the Fourteenth and Fifteenth General Assemblies. From 1889

[28] *Iowa Official Register,* 1911–12, pp. 144, 145.

[29] Brief biographical sketches of Judge Horace S. Winslow may be found in the *Annals of Iowa,* 3rd Series, Vol. IV, p. 320; *Proceedings of the Iowa State Bar Association,* 1900, pp. 99–104; and *The Bench and Bar of Iowa,* 1901, pp. 384–389.

[30] Very little of a biographical nature is to be found concerning Mr. Baker. A short sketch of his life may be found in *Proceedings of the Iowa State Bar Association,* 1911, pp. 22, 23.

[31] Gue's *History of Iowa,* Vol. IV, p. 252.

until 1895 Mr. Stone was the Attorney General of Iowa.[32] He is a Republican in politics.

Horatio F. Dale, who was appointed to the commission by the Supreme Court, was born and educated in England. Removing to this country about 1870 he located at Dubuque and studied law until 1874, when he removed to Corning. In 1892 Mr. Dale removed to Des Moines.[33]

The most distinguished member of the Commission, however, was Mr. Justice Emlin McClain of Iowa City, who was appointed by the Senate. Judge McClain was born at Salem, Ohio, on November 26, 1851. In 1855 his parents removed to Tipton, Iowa, where he received his preliminary education. After spending some time at the Wilton Academy he entered the State University of Iowa and graduated from the Law Department in 1873.[34] Later in the same year Judge McClain began the practice of law in Des Moines. *McClain's Code* of 1880 was prepared while he was thus engaged in practice. In 1881 he became a professor of law in the Law College at Iowa City and six years later he was made Vice-Chancellor. Three years thereafter he became Chancellor and for over ten years he held this responsible position. In 1901 he was elected to the Supreme Court of Iowa and filled this high post with eminent success for two terms.[35] In addition to the positions enumerated, Judge McClain has membership in the American Bar Association and has efficiently served the State on various occasions.[36]

[32] *Iowa Official Register,* 1911–12, pp. 112, 125, 146.

[33] *The Courts and Legal Profession of Iowa,* Vol. I, p. 396. Little seems to be in print concerning the career of Mr. Dale.

[34] *The Iowa Alumnus, Alumni Register Number,* 1911, p. 136.

[35] *Iowa Official Register,* 1911–12, p. 140.

[36] Among these labors have been the annotation of the *Code of 1897* and the supplements thereto, and acting as one of the Iowa Commissioners on uniform legislation in 1894.

His writings on jurisprudence are very voluminous and are widely known.[37]

The above Commissioners individually, at first, went over the entire *Code of 1873* and all the general statutes from 1873 to 1894 and then met in general session, "incorporating all amendments which have been made, omitting all provisions which have been repealed or are obsolete, and in general making the expression of the law correspond to its present legal effect."[38] The results of their labor was comprised in two volumes: one, a *Proposed Code;* and the other, the *Report of the Code Commission,* which explained the *Proposed Code.*[39]

REPORT OF THE CODE COMMISSION

The *Report of the Code Commission* is a small book of one hundred sixty-three pages which accompanies the *Proposed Code.* The general report, which occupies the first seven pages of this book, gives an account of the labors of the Commission.[40] Although empowered to propose new legislation the Commission exercised this power sparingly and in commenting thereon it remarked that "in the exercise of the duty of rewriting the law and improving its phraseology, the Commission has made many verbal changes, but has done so with great care in order that the meaning of the statutes should not be thereby materially changed. . . . It has therefore recommended some changes, having in view, however, the unification and per-

[37] For sketches on the life of Chief Justice Emlin McClain see *The Courts and Legal Profession in Iowa,* Vol. I, pp. 397–399; *The Bench and Bar of Iowa,* 1901, pp. 269–271; Gue's *History of Iowa,* Vol. IV, pp. 173, 174; and *Who's Who in America,* 1912–1913, p. 1319. A bibliography of his writings and also a short sketch of his career may be found in *The Hawkeye,* Class of 1913, State University of Iowa, 1912, Vol. XXII, pp. 361, 362.

[38] *Report of the Code Commission,* 1896, p. 1.

[39] *Code of 1897,* Preface, p. iv.

[40] *The Report of the Code Commission* is also contained in the *Iowa Documents,* 1896, Vol. III.

fection of the system of the written law as it now is, rather than the enlargement of it or its change in material matters."[41]

The Commission further explained that it had adopted a complete code, which it had had printed in the form of separate bills, ready for enactment, and that these had been bound together to form the *Proposed Code.* It also stated the manner in which new or rewritten portions were underscored so as to enable anyone to distinguish the new from the existing law. Under the authority of law the Commission omitted much that was superfluous and made many transpositions of words and phrases. In some instances these changes were so numerous that the entire chapter was underscored.[42]

The two bills referred by the Senate to the Commission for its consideration — one concerning the revenue and taxation laws, and the other providing for the adoption of the Torrens system of land titles — were discussed. Quite an extensive report was made on the revenue bill,[43] but it was not thought advisable to incorporate the Torrens system into the *Proposed Code.*[44] At the end of this general report there is a recommendation relative to the manner of considering the *Proposed Code,* which is of interest in view of the many ideas which were later expressed in the General Assembly as to how the Code should be considered. The Commission suggested that:

> With the view of facilitating the action upon this report by the General Assembly, it is respectfully suggested that without referring the different portions to the several committees of each body, a joint committee be appointed by the two Houses to consider and report as a whole, propose such changes as they may find in

[41] *Report of the Code Commission,* 1896, pp. 1, 2.

[42] *Report of the Code Commission,* 1896, pp. 3, 4.

[43] *Report of the Code Commission,* 1896, pp. 45–53.

[44] *Report of the Code Commission,* 1896, p. 6.

their judgment necessary, and take charge of the passage of the successive titles in the form of bills, and that from the beginning of its session the General Assembly set apart four days of each week for the consideration of the various titles as they may be reported to them by this joint committee, until the adoption of the entire code is completed. It is suggested that this is the only method by which the work can be accomplished at the regular session and that it can be successfully accomplished in this way without materially interfering with the general legislation, or greatly prolonging the session. Any general legislation which may be found necessary during the session can be passed in the form of separate bills and incorporated by the editor in the proper places in the code before the final numbering of the chapters and sections.[45]

Beginning with page ten there is an "Accompanying Report" in explanation of the reported code. Wherever there is any change of a material nature the change is explained and defects in the existing law are commented upon. There are in some instances new or substitute acts proposed in place of or supplemental to those in the *Proposed Code*.[46] Title five, which concerned city and town government, was considerably changed, the Commission declaring:

The chapter of the Code on cities and towns has been expanded by subsequent legislation into many times the bulk of the original statutory law on the subject, and has, therefore, been made a separate title and divided into chapters. The plan of the Code chapter has proven entirely too narrow for the subsequent legislation, and as a result the whole law of the subject has been thrown by subsequent enactments into inextricable confusion. The Commission has, therefore, felt justified in taking radical measures for the purpose of securing some intelligible system, not only for the present revision, but to serve as a basis for future legislation on the subject.[47]

Section six of chapter two of this title provided that all municipal elections should occur on the first Monday in

[45] *Report of the Code Commission,* 1896, p. 7.

[46] *Report of the Code Commission,* 1896, p. 23. Another example may be found on p. 35.

[47] *Report of the Code Commission,* 1896, p. 26.

April which change was made for the purpose of securing uniformity.[48] The law relating to sewer and street improvement was declared to be in the greatest confusion. An attempt was made to reduce the bulk of legislation upon these subjects, but from the table of legislative acts which is incorporated in the report, the difficulty of such a task is readily apparent.[49]

The title on revenue receives a great deal of attention in the report, the Senate revenue bill of the Twenty-fourth General Assembly having been referred to the Code Commission, as was also the report of the Revenue Commission of 1892. The latter commission, among other provisions, had recommended an elaborate inheritance tax law, but the Code Commission did not deem it wise to adopt this recommendation.[50]

One of the sections which was recommended for adoption was Section 4294 of the *Revision of 1860* which seems to have been omitted from the *Code of 1873* through inadvertence. This section provided that if any person break from the penitentiary he should be imprisoned for five years more after the termination of his original sentence.[51] Another new section which was based upon the statutes in force in Illinois and New York was aimed at "bookmakers" and other gambling institutions.[52] One section in the chapter on "Pardons and the Remission of Fines and Forfeitures" provided that the Governor might commute a death sentence to imprisonment in the penitentiary for life.[53]

In an appendix may be found tables showing where the

[48] *Report of the Code Commission,* 1896, p. 29.

[49] *Report of the Code Commission,* 1896, pp. 33–35.

[50] *Report of the Code Commission,* 1896, p. 50.

[51] *Report of the Code Commission,* 1896, p. 126.

[52] *Report of the Code Commission,* 1896, section 34, p. 126.

[53] *Report of the Code Commission,* 1896, p. 135.

various sections of *McClain's Code* may be found in the *Proposed Code,* both by page and section. Similar tables show where the various chapters of the laws of the Twenty-third to Twenty-fifth General Assemblies may be found in this portion of the book.[54]

THE PROPOSED CODE

The most important work of the Code Commission was the body of proposed bills which were to form the foundation for the *Code of 1897.* These were bound in a large quarto volume of 1031 pages, which was known as the "Black Code" from the color of the binding.[55]

Each title is printed in the form of a separate bill, thus following the method adopted in the preparation of the *Code of 1873.* Within each title the chapters are numbered consecutively as are also sections within each chapter. Whenever a section is new or is substantially rewritten it is underscored. One can thus tell at a glance whether the portion is existing law or the work of the Commissioners. At the end of a majority of the sections are numbers enclosed in brackets, which refer to *McClain's Annotated Code* of 1888. Citations were made to this work since it contained most of the legislation of the period and was easy to obtain for reference purposes.[56]

To enumerate all the changes outlined in the *Proposed Code* would make a very voluminous article and would serve no useful purpose. Only a few of the more important changes will therefore be noted. The chapter relating to

[54] *Report of the Code Commission,* 1896, pp. 139–163.

[55] The pages of this volume were the same size as the files on which the legislative bills are printed, about 12¾x9½ inches. The binder's title is "Proposed Revision of the Code of Iowa.— 1896". The title "Black Code" is the popular title and it is so called in the *Check List of the Publications of the State of Iowa,* p. 34. The title *Proposed Code* has been used by the writer to avoid confusion.

[56] *Proposed Code,* 1896, Explanatory Note.

the census is one that was totally rewritten.[57] The chapter concerning the Clerk of the Supreme Court[58] was very largely recast, as is also Title V, relating to city and town government.[59] The larger part of Title XII, dealing with the police of the State, was remoulded and rewritten.[60] The election law contains provisions for the Australian ballot and a form of blank ballot.[61]

The greatest number of changes occured in part one, which covers nearly six hundred pages of the report. The majority of the changes in part two, which contains private law, appear to be of a minor nature. In parts three and four there are comparatively few changes. The indeterminate sentence law is to be found in the latter part of part four and is one of the important parts of the Criminal Code.[62] At the close of the volume is to be found a table of corrections and a table of contents.

LEGISLATIVE ACTION UPON THE REPORT

The Twenty-sixth General Assembly began its session on January 13, 1896.[63] Three days later Governor F. M. Drake delivered his inaugural address. In it he declared:

> The last general assembly created a commission of five men, learned in the law, to revise and recodify the statutes of the state. This commission has completed its work, and its report will come before you for consideration. It is of vast importance, affecting as it does every interest in the state. This being the case, I need not urge upon you to give it a thorough examination and careful consideration.
>
> Allow me to suggest that the laws pertaining to contracts should

[57] *Proposed Code,* 1896, pp. 37, 38.

[58] *Proposed Code,* 1896, pp. 46, 47.

[59] *Proposed Code,* 1896, pp. 125–194.

[60] *Proposed Code,* 1896, pp. 437–530.

[61] *Proposed Code,* 1896, pp. 203–224.

[62] *Proposed Code,* 1896, pp. 1016, 1017.

[63] *Iowa Official Register,* 1911–12, p. 125.

be made, so far as possible, to avoid technicalities, and so simplified as to be within the comprehension of ordinary minds. If this can be done, much in the way of litigation will be avoided, the work of courts and juries lessened, and the burdens of taxation lightened.[64]

On the day before the above address was delivered, however, Mr. James H. Funk of Iowa Falls offered the following resolution, which was adopted:

Resolved, That a committee of seven (7) be appointed by the Speaker to recommend a plan for the consideration of the report of the Code Commission, and that the committee report as soon as possible.[65]

The Speaker accordingly appointed Mr. James H. Funk of Iowa Falls, Mr. M. L. Temple of Osceola, Mr. H. K. Evans of Corydon, Mr. Charles L. Early of Sac City, Mr. W. W. Cornwall of Spencer, Mr. Claude R. Porter of Centerville, and Mr. Harry O. Weaver of Wapello.[66]

The members of this committee were not of the same mind as to how the code report should be considered and a majority and a minority report were submitted. A partial report, submitted in behalf of the majority by Mr. M. L. Temple, and signed by all except Mr. Charles L. Early, provided that a committee of twenty-five members, to be known as the Code Revision Committee, should be appointed. The duties of such standing committee were to "subdivide said report and assign different parts and titles thereof to the proper standing committees of the House, and shall duly report such assignments to the House, which body shall retain the power to refer to the regular standing committees, or the Code Revision Committee, any bills introduced or any parts of the report of the Code Commission."[67]

64 Shambaugh's *Messages and Proclamations of the Governors of Iowa,* Vol. VII, p. 114.

65 *House Journal,* 1896, p. 23.

66 *House Journal,* 1896, p. 26.

67 *House Journal,* 1896, p. 30.

Mr. Chas. L. Early presented a minority report which provided for the appointment of a joint commission of three members from each house who should divide the *Proposed Code* as nearly as possible into five sections of equal importance and report their action to the two houses. Thereupon, the presiding officer of each house would appoint five special committees of five members each, which would be known as the first, second, third, fourth, and fifth divisions of the Code Revision Committee. Before a final recommendation the five committees were to form a "Committee of the Whole and concurrently report to the two Houses".[68]

On the following day the committee again submitted majority and minority reports which were very similar to the two reports just described.[69] Mr. James H. Funk, however, had joined with Mr. Early in recommending the adoption of the minority report.[70]

On the 18th of January, 1896, there was submitted in the House a resolution which was a modification of the plan proposed by Mr. Charles L. Early a few days previously.[71] After several substitutes had been offered and voted down the resolution was adopted.[72] The Speaker of the House accordingly appointed W. S. Allen, J. H. Funk, W. W. Cornwall, M. L. Temple, and H. H. Brighton a committee of five to divide and assign the parts of the report of the Code Commission.[73] These gentlemen, on the day after their appointment to the Committee on the Distribution of the Code, introduced House Files Nos. 2 to 27, inclusive, which

[68] *House Journal,* 1896, pp. 30, 31.

[69] *House Journal,* 1896, pp. 35, 36.

[70] The House ordered 500 copies of the minority report to be printed.—*House Journal,* 1896, p. 37.

[71] *House Journal,* 1896, pp. 38, 39.

[72] *House Journal,* 1896, pp. 39–42.

[73] *House Journal,* 1896, p. 46.

were the twenty-six bills prepared by the Code Commission, each bill containing a title.[74] Later in the same day they made the following assignment which was approved:

First division, House Files Nos. 2, 3, 4, 10, 17, 18, and 27; second division, House Files Nos. 5, 11, 12, and 19; third division, House Files Nos. 6, 13, 20, 21, and 22; fourth division, House Files Nos. 7, 14, 23, 24, and 25; fifth division, House Files Nos. 8, 9, 15, 16, and 26.[75]

On the following day the Speaker announced the standing committees of the House and the various divisions of the Committee on the Revision of the Code.[76]

[74] *House Journal,* 1896, pp. 54–57.

[75] *House Journal,* 1896, p. 59. This report was printed for the use of the members.

[76] *House Journal,* 1896, pp. 70–79.

The Judiciary Committee consisted of the following representatives: W. W. Cornwall of Spencer, W. S. Allen of Birmingham, C. C. Dowell of Des Moines, Harry O. Weaver of Wapello, Parley Finch of Humboldt, M. L. Temple of Osceola, H. H. Brighton of Fairfield, H. K. Evans of Corydon, C. F. Johnston of Sheffield, J. F. Lavender of Rockwell City, William C. McArthur of Burlington, Francis McNulty of Sioux City, S. Mayne of Bancroft, J. T. P. Power of Keokuk, N. A. Merrell of De Witt, O. A. Byington of Iowa City, and Claude R. Porter of Centerville.

The committees on the revision of the Code were as follows:

First Division — M. L. Temple of Osceola, H. J. Griswold of Winthrop, J. F. Reed of Nevada, H. H. Brighton of Fairfield, J. W. Lauder of Afton, H. J. Nietert of Walker, and N. A. Merrell of De Witt.

Second Division — W. S. Allen of Birmingham, W. W. Cornwall of Spencer, William C. McArthur of Burlington, R. T. St. John of Riceville, M. K. Whelan of Estherville, G. N. Haugen of Northwood, and F. B. Manahan of Le Mars.

Third Division — Parley Finch of Humboldt, John Morrison of Hedrick, Z. H. Gurley of Lamoni, H. K. Evans of Corydon, Francis McNulty of Sioux City, A. L. Wood of St. Charles, and O. O. Tibbitts of Sumner.

Fourth Division — M. H. Brinton of Ellsworth, C. F. Johnston of Sheffield, C. C. Dowell of Des Moines, James H. Funk of Iowa Falls, W. G. Ray of Grinnell, J. D. Morrison of Reinbeck, and Claude R. Porter of Centerville.

Fifth Division — Harry O. Weaver of Wapello, S. Mayne of Bancroft, Charles L. Early of Sac City, William B. Bell of Washington, J. F. Lavender of Rockwell City, W. B. Martin of Greenfield, and L. F. Potter of Oakland.

Mr. E. M. Allen acted as clerk to the second division, Mr. O. V. Miracle to the fourth division, and Mr. J. M. McLaughlin to the fifth division.

Early in the session a concurrent resolution was received from the Senate providing that any code of laws or any revision prepared under authority of the General Assembly, should "be properly and carefully annotated, and show in connection with each section the decisions of the Supreme Court relative thereto."[77] This was referred to the Code Commission for further action.[78] Nothing, however, seems to have been done by this Commission in that respect.

On January 29, 1896, a concurrent resolution calling on the Secretary of State to distribute three copies of the report of the Code Commission, along with three copies of the *Proposed Code,* to each member of the General Assembly was adopted in the House.[79] On the same day Mr. W. W. Cornwall offered a resolution which was adopted and which required each division of the Committee on Revision to report the number of their titles with the various chapters and the page of each in the *Proposed Code.*[80] The various sub-divisions reported as ordered[81] and from time to time submitted reports on the bills assigned to them.[82]

By the middle of February the House evidently began to realize the hugeness of the task before it, and Mr. O. E. Doubleday of Elkhart offered the following resolution:

Whereas, There is a difference of opinion as to the best method of acting on or adopting any part of the commissioner's Code; and

[77] *House Journal,* 1896, p. 67.

[78] *House Journal,* 1896, p. 86.

Mr. Parley Finch early in the session had offered the following resolution concerning the consideration of bills, which had been adopted: "That all bills introduced in the House to repeal, amend, or in any manner affect existing statutes shall, on the margin or at the foot of said bill, refer to the page of the proposed code where said law to be so repealed or amended can be found". — *House Journal,* 1896, p. 48.

[79] *House Journal,* 1896, pp. 95, 97.

[80] *House Journal,* 1896, p. 97.

[81] *House Journal,* 1896, pp. 102, 103, 122, 123, 141–143, 146, 147, and 158–160.

[82] *House Journal,* 1896, pp. 357, 386.

Whereas, I believe the members of the General Assembly honestly want to get through with the business coming before them as rapidly as possible; therefore, be it

Resolved, by the House, the Senate concurring; That whenever any standing committee approve any chapter or title, and have incorporated in said chapter or title all acts approved by the Twenty-sixth General Assembly referring to such chapter or title, the chapter or title of the commissioners' Code so approved, on being referred to either House of the General Assembly shall be considered and acted on in its order, and when approved by both Houses and signed by the Governor shall be considered as a part of the New Code.[83]

This resolution, however, does not appear to have been adopted. Nearly a month later another resolution was proposed which provided that "after March 27 no business be considered by this assembly except that pertaining to the Code, and that final adjournment be fixed for Wednesday, April 15."[84] This proposal was also "laid over under Rule No. 34". On March 14th, Mr. Doubleday again attempted to hurry the work on the Code by offering a resolution calling on the House of Representatives to hold a two-hour session every afternoon "for the consideration and passing of the titles of the Code on which the proper committees have acted and reported passage."[85]

On the 25th of March, however, a direct attempt was made to postpone action on the Code in a resolution offered by Mr. S. N. Hinman of Belmond, which reads: "*Resolved,* That all further consideration of the report of the Code Committee be postponed until the completion of the regular work of this session."[86] On the following day the House voted on the question of an adjourned session, but Judge O. A. Byington of Iowa City offered a substitute resolution

[83] *House Journal,* 1896, p. 383.

[84] *House Journal,* 1896, p. 745.

[85] *House Journal,* 1896, p. 767.

[86] *House Journal,* 1896, p. 879.

which declared that the Twenty-sixth General Assembly would complete and adopt the Code before adjournment. This resolution carried by a vote of 55 to 39.[87] Several members filed written explanations of their vote, among them being W. S. Allen, who declared that he voted against the substitute because he thought it nothing but a dilatory measure which would place the members in a false light.[88]

Immediately after the adoption of this resolution two others were introduced calling for information as to the progress of the work of revision, but they were both laid on the table.[89] On the 27th Mr. H. B. Watters moved to reconsider the vote on the Byington resolution and this was seconded by Mr. J. J. Lowry.[90] On the same day Mr. F. F. Merriam of Delaware County proposed that after March 31st the House should consider "only appropriation bills, bills granting claims against the state reported favorably by the Committee on Claims, and the proposed Code, and that no other bills be considered unless taken up by consent of the entire House."[91]

On March 27th, during the discussion relative to adjournment, two bills had been introduced in the House for the purpose of paying the Code Commission and the clerk of the Commission.[92] After having been considered by the Committee on Appropriations they were recommended for indefinite postponement.[93]

On April 3rd the question of adjournment was again raised in the House by a resolution received from the Senate fixing April 11, 1896, as the time when the two houses should

87 *House Journal,* 1896, pp. 889, 890.

88 *House Journal,* 1896, p. 891.

89 *House Journal,* 1896, p. 891.

90 *House Journal,* 1896, p. 896. A similar motion is to be found on p. 909.

91 *House Journal,* 1896, pp. 901, 902.

92 *House Journal,* 1896, p. 900.

93 *House Journal,* 1896, p. 968.

adjourn *sine die*. This resolution was adopted by a majority of twenty votes, several voting "aye" in order that they might move for a reconsideration.[94] Later, however, the following concurrent resolution was received from the Senate and passed on April 11, 1896:[95]

WHEREAS, The people of the State of Iowa have deemed it advisable to codify and revise the statutes of the State, and the Twenty-fifth General Assembly in obedience to the will of the people as interpreted by them, appointed a commission to do said work and make report thereof to the Twenty-sixth General Assembly for their action; and

WHEREAS, Said commission after two years labor reported to the Twenty-sixth General Assembly a proposed Code of over one thousand pages, containing a revision and codification of the statutes of the State, and this Assembly has entered into an examination and discussion thereof, and has now been in session the customary period and has not been able to pass upon more than one-half of said report up to the present time for the reasons:

First.— That the Assembly has been compelled to consider matters of original legislation presented in 950 bills in addition to the aforesaid Code work.

Second.— For the reason that the revision requires an examination of the Code of 1873 and the acts of eleven General Assemblies, the Fifteenth to Twenty-fifth inclusive, and the work of examining and comparing the proposed Code with existing statutes is slow and laborious.

Third.— For the reason that the commission embodied in the reported Code numerous changes from existing law, which changes have compelled the Assembly to consume time in their examination and discussion; and

WHEREAS, Doubts have arisen as to the accuracy of the revision of certain chapters and titles, and it is deemed unwise to pass the same until ample time can be given the people of the State to examine and compare the proposed Code with existing law; and,

WHEREAS, The proposed Code was not published until December, 1895, and little opportunity was given for such examination and

[94] *House Journal*, 1896, pp. 1003, 1004.

[95] *House Journal*, 1896, p. 1197.

comparison by any one prior to the convening of this General Assembly; and,

WHEREAS, The future value of the revision depends upon the care exercised in the work, and its importance demands ample time for thorough consideration, and the exclusion of original legislation is necessary while the proposed revision is under discussion; therefore, be it

Resolved by the Senate, the House concurring, That we deem it impossible, under existing circumstances, to complete the work of Code revision at this or any other regular session, or any reasonable extension of the present session, in a manner that would be satisfactory and acceptable and just to the people of the State.

That the propriety and expediency of Code revision cannot now be questioned, and the work, if thoroughly done, will be of lasting value to the State.

That we deem it advisable to secure the benefit of the knowledge and experience acquired by this Assembly in the work of the Code revision, and the benefit of the work done by them, and believe it to be for the welfare of the State and in the interest of economy that the work be completed at as early a date as practicable, and not later than January, 1897.[96]

Near the close of the session a resolution was spread on the minutes declaring that in the case of an extra or adjourned session, the House would retain its present clerical force.[97] The House adjourned *sine die* on April 11, 1896,[98] though a great many petitions had been received opposing such action.[99]

In the Senate there does not appear to have been as much uncertainty as to the method of procedure in regard to the consideration of the report of the Commissioners as in the House. On the first day of the session Senator William B. Perrin of Nashua offered the following resolution: "*Resolved,* That there be a committee of the Senate to be known

[96] *House Journal,* 1896, pp. 1180, 1181.

[97] *House Journal,* 1896, p. 1212.

[98] *House Journal,* 1896, p. 1225.

[99] *Senate Journal,* 1896, pp. 531, 543, 551, 565, 566, 574, 575, 602, 615.

as the Code Revision Committee, appointed by the President of the Senate.'"[100] As there were objections to this resolution at the time it was laid over until the following day and again introduced.[101] Senator L. A. Ellis of Clinton wanted to amend the resolution by having the presiding officer of the Senate appoint fifteen members and the Speaker of the House twenty-five members, who should constitute a Code Revision Committee. This committee should assign the various parts of the report to the standing committees, but the houses were to retain the power to refer any bills as they deemed fit.[102]

For this amendment Senator W. H. Berry of Indianola proposed the following substitute:

Resolved, That a committee of fifteen be appointed by the chair, to be known as the Code Committee, whose duty shall be:

First.— To recommend to the Senate the assignment of the different parts of the Code of Iowa as reported to the General Assembly by the Code Commission to the several standing committees, except titles 17 and 18.

Second.— To have charge of titles 17 and 18 of the code as reported by the Code Commission, and to which shall be referred all matters introduced, which shall relate to the subjects of said titles 17 and 18.

Third.— Such other matters as may be referred to it by the Senate.[103]

Senator Thomas A. Cheshire of Des Moines desired that all these resolutions be laid over and that they be also printed. Senator James H. Trewin, however, offered an amendment to the Cheshire motion which provided that the

100 *Senate Journal,* 1896, p. 10.

101 *Senate Journal,* 1896, p. 16.

102 *Senate Journal,* 1896, p. 16. Senator Trewin, who is now a resident of Cedar Rapids, was one of the leading advocates of codification. On the second day of the session he introduced a resolution to distribute three copies of the *Proposed Code* and the accompanying report to each member of the General Assembly.— *Senate Journal,* 1896, p. 14.

103 *Senate Journal,* 1896, p. 16.

question "be referred to a committee of seven, to report to the Senate to-morrow a plan for the consideration of the report of the Code Commission."[104] This amendment was received with favor and the President appointed James H. Trewin, L. A. Ellis, W. H. Berry, N. M. Pusey, T. G. Harper, L. C. Blanchard, and Joseph M. Junkin on such committee.[105]

When the Committee reported on the following day it proposed the following resolution:

Be it resolved by the Senate, That there is hereby created a standing committee of fifteen (15) members to continue during the Twenty-sixth General Assembly, and to be known as the Code Revision Committee, and to which shall be referred the report of the Code Commission.

Said committee shall sub-divide said report and assign different parts and titles thereof to the proper standing committees of the Senate, and shall duly report such assignments to the Senate, which body shall retain the power to refer to the regular standing committees or the Code Revision Committee any bills introduced, or any parts of the report of the Code Commission. Said Code Revision Committee may confer with any like committee of the House, and may concur in reports to the respective bodies.[106]

This resolution, upon the motion of Mr. B. F. Carroll, was adopted. On the following day, therefore, Lieutenant Governor Matt Parrott appointed the Senate standing committees and the following gentlemen were placed on the Committee for the Revision of the Code:[107] C. A. Carpenter of Columbus Junction, Chairman, James H. Trewin of

[104] *Senate Journal,* 1896, pp. 16, 17.

[105] *Senate Journal,* 1896, p. 17.

[106] *Senate Journal,* 1896, p. 23.

[107] In his first address to the Senate Lieutenant Governor Matt Parrott said: "In addition to the ordinary legislation of a session, you are called upon to consider the report of the commission provided by the Twenty-fifth General Assembly to revise the Code of Iowa. The completed report is before you, and throws additional as well as very grave responsibilities on you. The preparation and final completion of the work involves a large expenditure to the State,

Lansing, N. M. Pusey of Council Bluffs, George M. Craig of Allison, J. L. Carney of Marshalltown, W. H. Berry of Indianola, J. S. Lothrop of Sioux City, Joseph M. Junkin of Red Oak, Alva C. Hobart of Cherokee, A. B. Funk of Spirit Lake, G. S. Gilbertson of Forest City, H. L. Waterman of Ottumwa, John E. Rowen of Clarion, Cyrus S. Ranck of Iowa City, and T. G. Harper of Burlington.[108]

The committee thus appointed was one of unusual ability and its membership contained some of the leading lawyers and practitioners in the State.

On the 20th of January the Code Revision Committee made a report in which the various titles were assigned to the Senate standing committees, and at the same time it introduced Senate Files Nos. 45 to 64 inclusive, which were bills "to revise, amend and codify the laws in relation to" the various titles embraced in the *Proposed Code*.[109]

and the value of your labors the future will have to determine. If the passing years demonstrate that you have acted wisely and well the reward will be yours. Stability in our laws is the desideratum to be desired. Haste in the consideration of this report, therefore, should not dominate, but thoroughness rather, and I believe this will be your collective view."— *Senate Journal,* 1896, p. 30.

108 *Senate Journal,* 1896, p. 35.

The Judiciary Committee, which always plays an important part in the making of laws, consisted of Lyman A. Ellis of Clinton, Thomas A. Cheshire of Des Moines, William Eaton of Sidney, C. A. Carpenter of Columbus Junction, William B. Perrin of Nashua, Julian Phelps of Atlantic, C. C. Upton of Cresco, W. F. Harriman of Hampton, L. C. Blanchard of Oskaloosa, W. O. Mitchell of Corning, F. O. Ellison of Anamosa, Thomas D. Healy of Fort Dodge, T. G. Harper of Burlington, Cyrus S. Ranck of Iowa City, and Robert Bonson of Dubuque.

109 *Senate Journal,* 1896, pp. 56–59.

The Committee on Code Revision also introduced code bills as follows: Senate Files Nos. 80 to 104, 388 to 390, 420 to 422.— *Senate Journal,* 1896, pp. 74–76, 492, 493, 615. The Committee on Schools introduced code bills in Senate Files Nos. 433 to 438.— *Senate Journal,* 1896, pp. 694, 695. Reports of the Committee on Code Revision on bills assigned to it may be found in the *Senate Journal,* 1896, pp. 126, 184, 362, 406, 476, 496, 497, 541, 582, 584, 594, 595, 617, and 618. The large number of amendments to the *Code of 1873* are listed on pages 970–973.

Early in the session a resolution offered by Senator J. L. Carney of Marshalltown raised the question of annotation. On the 22nd of January he proposed a concurrent resolution providing that any code or revision prepared under the direction of the General Assembly should be annotated.[110] This resolution was adopted in the Senate, but no action appears to have been taken on it in the House.[111]

On February 4, 1896, Senator Blanchard, a member of the Judiciary Committee, presented a concurrent resolution which shows that at this early date in the session there were members who did not deem it possible or advisable to complete the Code at the regular session. Though Senator Blanchard's resolution was never adopted by the legislature it is here given in full:

WHEREAS, The Twenty-fifth General Assembly created a Code Commission "to revise and codify the laws of Iowa," empowering such commission "to revise the same and divide them into appropriate parts and arrange them under appropriate titles, chapters and sections; omit all parts repealed or obsolete, insert all amendments, and make the laws complete"; also "to change the phraseology and make any and all alterations necessary to improve, systematize, harmonize and make the laws clear and intelligible;" and

WHEREAS, Such Commission has construed the language of such act to authorize them to make any alterations and changes in the existing laws which they deemed proper or desirable, and have prepared a proposed Code, which is not merely a codification of existing laws, but which omits a large portion of the existing laws and substitutes other proposed laws of different import, and have made innumerable alterations not only in the language, but in the spirit, purport and effect of the various statutes, the new matter being intermingled with the old in such a manner that it will require a vast amount of labor and much more time to properly consider it in detail so that intelligent actions can be had thereon than will be at the disposal of this General Assembly; and

WHEREAS, It is now apparent that it will be impossible for this

110 *Senate Journal,* 1896, p. 73.

111 See above, notes 77 and 78.

General Assembly to adopt a new Code, and that should the General Assembly go through the Code in detail, so many alterations will have been made including new legislation, that a new Code Commission will be required to complete the work; therefore,

Resolved, By the Senate, The House concurring, That no further consideration be given to the proposed Code during the present session, and at the close of the session a new commission of one or more members be appointed (by a properly prepared bill) to codify the existing laws without change or alteration, except to omit such laws as have been repealed, and arrange all existing public laws under proper titles, chapters and sections, thus compiling a Code of laws which will require no further action on the part of the General Assembly.[112]

A resolution providing that no bills be introduced after February 20, 1896, was referred to the Code Revision Committee, and they recommended a substitute which called for the introduction after that date of only legalizing acts and appropriation bills, but this also failed of passage.[113]

On April 9, 1896, Senator C. A. Carpenter introduced a concurrent resolution which has been quoted above in connection with the consideration of the report of the Code Commission in the House. The resolution stated that the General Assembly would be unable to complete the revision at the regular session, but that it should be adopted not later than January, 1897.[114] On the following day the resolution was adopted by the vote of 33 to 12.[115] One Senator, Mr. J. L. Carney, voted against the measure for the reason that he thought it was inviting the calling of an extra session.[116] The House concurred in the action of the Senate and the consideration of the Code was thereupon dropped.[117] In

112 *Senate Journal,* 1896, p. 125.

113 *Senate Journal,* 1896, p. 166.

114 *Senate Journal,* 1896, p. 866.

115 *Senate Journal,* 1896, pp. 923, 924.

116 Some of the Senators made written explanations of their votes.

117 *Senate Journal,* 1896, p. 934.

his closing remarks the President of the Senate spoke as follows:

> There may be a feeling of disappointment that all hoped for at the commencement of the session has not been accomplished, but this is inevitable. The value of your work cannot be measured by the number of bills passed. It is in the committee room where the best work is done, and this does not appear on the surface, nor do the public in general realize this. It is my judgment, after a somewhat extended experience, that never has there been more faithful and earnest work performed by the committees. Your labors have been incessant, and I believe in time that the people will endorse with the seal of approval the meritorious work you have performed.[118]

The real work of adopting the report of the Code Commissioners was thus delayed to a later session.[119]

NEWSPAPER COMMENT ON THE ACTION OF THE TWENTY-SIXTH GENERAL ASSEMBLY

The action of the Twenty-sixth General Assembly was very fully chronicled in the newspapers of the State.[120] Owing to the depleted condition of the treasury there seems to have been a general opinion that the legislature should complete its consideration of the report of the Code Commissioners at the regular session and not put off the task.[121]

[118] *Senate Journal,* 1896, p. 963.

[119] Senator Trewin introduced Senate File No. 160, which was a bill for an act to codify the school laws, but this also failed to pass.— *Senate Journal,* 1896, pp. 118, 419, 679, and 704. Senate Files Nos. 439 and 440 relative to the payment of a balance to the Code Commission and the clerk of the Commission likewise failed to pass.— *Senate Journal,* 1896, pp. 695 and 873.

[120] In the preparation of this article the writer has selected, for obvious reasons, only three of the leading State papers from which to make his quotations. Two of these, representing the two leading political parties, were published in Des Moines, and the other was published at Burlington. A vast amount of material is to be found in other newspapers but could not be used in the limits of this paper.

[121] A cartoon in *The Des Moines Weekly Leader,* Thursday, January 30, 1896, entitled "Will It Light" shows a carrion bird hovering over the State House, in the basement of which is printed "Treasury Empty".

From the accounts in the newspapers it is possible to gain a view of the attitude of the public toward the legislative action on the Code in a better manner, perhaps, than in any other.[122] The plans which the two houses adopted for considering the Code are very clearly set forth in the following statements from one of the leading capital city papers:

> The one important matter that the legislature has determined in the first week of the session, is the plan on which the code revision is to be handled. The house reached its determination of this important matter Saturday; the senate decided on its plan two or three days ago.
>
> The plan in the senate, briefly, is this: The committee of fifteen, heretofore appointed, shall take charge of the code as revised, and distribute it, by subjects, to the standing committees which ordinarily would have jurisdiction over the respective subjects. The regular committees are to go over the work in detail, compare the old and new codes, and prepare their reports on the matters recommended by the commissioners. The reports from these committees will be made directly to the senate, which will take its final action on them.
>
> The plan proposed for the house, adopted yesterday, is more complex, but those who have advocated it hold that it is better calculated for the management of so large a subject in so large a body as the house. The simpler system adopted by the senate might, from its very simplicity, open the way to too much discussion for a body with the membership of the house. Such, at least, is the argument advanced by those who have pushed the house plan to adoption.
>
> It is proposed that the house shall have a general code committee of thirty-five. This committee shall be divided into five divisions, of seven members each. The code shall then be divided into five parts, as nearly as may be equal in importance and demands of time for their consideration. Each subdivision shall consider in detail the part referred to it; but this is limited by the provision that any regular standing committee may demand that any part of the code

122 Articles concerning the Code may be found in *The Iowa State Register* (weekly) of Des Moines, from February 6, 1896 to April 17, 1896, and in *The Des Moines Weekly Leader* from January 16, 1896 to April 16, 1896.

referring to those subjects over which it ordinarily would have jurisdiction, be referred to it; in case of which demand, the parts demanded shall be given by the subdivision of the general code committee to the regular standing committee.

The subdivisions will report directly to the house, as will also the standing committees on the parts which they consider.[123]

The greatest amount of discussion was aroused by questions connected with the provisions relating to railroads, manufactures, and the holding of an extra session. It was predicted early in the session that the work of revision could not be finished at the regular session. In general, it appears that the Democrats were favorable to an extra session, judging from the following article from a leading Democratic paper:

Senator Harper of Burlington, one of the leaders of the democratic minority of the senate, and a member of the committee of fifteen on a plan for handling the code revision, is one of the leaders in the idea that an extra session of the legislature will be necessary before the code can be properly disposed of. Not only this, but he believes the extra session will have to be held, not at the close of the regular session, but a year hence. This for the reason that a large number of the members will be unable to spare the time from their private business after the conclusion of the regular session.

"I am decidedly of the opinion," said Senator Harper, "that the state will demand of us to make haste slowly in this important matter. It is important that the code revision be made very carefully. Besides this, we will find the regular business of the session pressing upon our attention. There are various matters of great importance to come before us, aside from the code revision. The question of resubmission is certain to demand our attention and take considerable time. The manufacturing bill will come up, and those members who are in favor of it will at least make their strongest fight in its behalf. Personally, I am doubtful about the success of the manufacturing bill. I anticipate that resubmission will be defeated. Should it carry, I feel that there is serious danger that the amendment might be adopted. I know there are many who

[123] *The Des Moines Weekly Leader,* Thursday, January 23, 1896, p. 4.

believe this impossible; but the fact remains that a very large element of the people in Iowa believe that prohibition is right; and there is another element whose number is hard to estimate that would vote for the amendment, not so much because they regard constitutional prohibition as the best method of dealing with the liquor question, but because they would consider the adoption of the amendment as a method of finally putting an end to the agitation that has been stirring up the state for so long."[124]

In another issue this same paper protests as follows against any gulping of the Code:

The Leader has been one of those urging upon the legislature the folly and extravagance of an extra session. From the convening of the legislature to the present there has been scarce an issue which has not in some wise called the attention of the legislature to the fact that it would be necessary to show diligence to get through the ordinary work of the session and at the same time complete the code work. It has seen with regret that the legislature was not disposed to heed this advice, and that week after week has frittered away time over the age of consent bill and cigarette bills and similar legislation.

But much as it deplores an extra session and much as it believes that there has been no reason for it, there are some things worse. Serious doubt has been thrown upon the integrity of certain portions of the Code Commission's report. It has been publicly charged that particularly the sections of the present code governing railroads and legislative amendments thereto, have been emasculated. If this be true and the Iowa railroad laws in any of its essential features have been surreptitiously attacked, rather than have the legislature gulp the new code whole in the closing hours of the session it would be infinitely better to have an extra session.

The Leader, like all friends of public control of the railroads of the state, a policy to which the people of Iowa are thoroughly committed, views with suspicion any attempts to change even the phraseology of the existing railroad laws. It sees no necessity why these laws should not stand, without material change, even in verbiage. The courts in the past have never had great difficulty in getting at the legislative intent, and they would doubtless continue to

[124] *The Des Moines Weekly Leader,* Thursday, January 23, 1896, p. 3.

do so in the future. Merely as a matter of caution the friends of public control will insist that if there is to be any gulping of the code whole that that swallowed shall be the existing laws rather than new ones, as to which there may be doubt of judicial interpretation.[125]

The Republican rival of the *Leader,* however, openly charged the Democrats with desiring an extra session in order to bring the Republican party into disrepute. In a stinging article *The Iowa State Register* declared:

The Leader is opposed to the new code, although it has professed to be in favor of it and is in favor of an extra session for the simple reason that it believes it would get the Republican party into a tangle. Perhaps the Leader is opposed to the new code for it proposes to tax certain banks in which the real proprietor of the Leader is interested. If the corporations are favoring the new code it is news to us. We profess we are astonished to hear such statements made. The Register is in favor of a new code if it will leave the laws practically as they are. It doesn't want any sudden, new fangled theories introduced. Especially is it opposed to increasing assessments in order that the tax eaters may increase both the taxes wrung out of the people and the constitutional indebtedness laid upon their shoulders. If a new code, very like the old code, only simplified and rearranged, can be adopted, let us have it. If not, let us have an early adjournment and no extra session. What is not done with the code at this session will remain undone until the next regular session.[126]

The Clarkson paper was unusually bitter against the report of the Code Commission and when Senator Blanchard introduced his resolution to drop the consideration of the Code it made the following comment:

The people of Iowa are in favor of the prompt adoption of Senator Blanchard's resolution which provides that "no further consideration be given to the proposed code during the present session," and for "a new commission of one member" "to codify the existing laws without change or alteration, except to omit such laws

[125] *The Des Moines Weekly Leader,* Thursday, March 19, 1896, p. 4.

[126] *The Iowa State Register* (Des Moines), Friday, March 20, 1896.

as have been repealed,'' and to properly arrange all existing laws and thus compile ''a code of laws which will require no further action on the part of the general assembly''— provided the word ''present'' be inserted before the words ''general assembly,'' and provision be made for the submission of the code thus codified to the next legislature. Not a single state interest will suffer by the postponement of the code revision for another two years and many thousands of dollars of wholly unnecessary expense can thus be prevented from adding to the burdens of the state treasury.

The Republican legislators should promptly decide that there shall be no extra session, no increase in assessed valuation, no increase in rate of taxation, no revision of the code, and no over-appropriations by the present general assembly, and then proceed with the real and pressing business of the term which can be wholly completed within eight weeks.[127]

Another article which shows the *Register's* hostile attitude toward the report of the Code Commissioners reads:

The code commissioners' revision is on its death bed and the legislature's most important duty is to promptly kill it beyond all possibility of resurrection. That revision was born in iniquity, reared to be able to speak for itself in its provisions for increasing litigation in every chapter and in almost every section, and the fight being made for the prolongation of its existence is partly for personal gain. The commissioners' revision cost the state treasury $36,000, the additional costs added by the present legislature is about $14,000 — a total of $50,000 worse than thrown away — and it is still costing the state about $1000 per day, for the legislature is doing little else than considering the revision and keeping an army of clerks and employes at labor thereon. All the doctors are desperately endeavoring to save the life of the moribund revision, but

127 *The Iowa State Register* (Des Moines), Thursday, February 6, 1896, p. 4. In a column headed ''In General and Particular'' in the above issue are several paragraphs relative to the Code. ''Senator Blanchard's resolution reads well and it hits off the new code in about the right way. Everyone in Iowa would be in favor of putting the new revision in the waste basket — were it not for the fact that the state has invested $30,000 in it, mostly in salaries. We understand there are even some back salaries claimed for extra time put into the work of rewriting the laws of Iowa.''

''In the case of the code commission all gall was divided into five, instead of three parts.''

it will die, as it ought to die, and it ought to be promptly killed so as to save all further expense in its consideration. Let it die quickly and be buried under the unanimous contempt of public opinion. Every day's delay in killing it will cost the state treasury an additional $1000. Kill it quickly and then proceed with the real and pressing business of the term.[128]

Other newspapers, however, took the view that the revision was a task too great to be accomplished at the regular session, even by a body as capable as the members of the Twenty-sixth General Assembly. One paper summarizes the situation in these words:

While a revision of the code failed, together with an attempt at an independent revision of the revenue laws, it is unjust to charge the members of the assembly with unusual lack of industry. The Leader is of the belief that the code might have been finished at this session by protracting its duration, and the heavy expenses of an extra session avoided. That it was not is due more to the complicated form in which the proposed revision was presented, which caused a fear of its integrity, than to real lack of energy on the part of the members. This is especially true of the house, in which the committee work on the code was nearly completed, and in which it would have been completed but for the determination some time ago to abandon it.[129]

THE CALL FOR AN EXTRA SESSION

The resolution which had passed both houses of the legislature stated that it was deemed advisable to complete the work on the code not later than January, 1897. It had also declared that such a result would be for the best interests of the State.[130] This, in effect, relieved the legislature from the responsibility of insisting on an adjourned session while it cast upon the Governor the blame should an extra session be called. At the same time it invited the chief executive to call such a session.

128 *The Iowa State Register* (Des Moines), Friday, February 14, 1896.

129 *The Des Moines Weekly Leader,* Thursday, April 16, 1896, p. 4.

130 *Senate Journal,* 1896, p. 866.

During the summer of 1896, however, several events occurred which made it very necessary that an extra session be called. Four of the State institutions were damaged by fire and storm, the damage at one reaching $125,000 and seriously crippling the efficiency of the plant.[131] Consequently, on November 7, 1896, Governor Drake issued the following call:

> Whereas, The People of Iowa, speaking through the General Assembly, have declared it to be advisable that the statutes of the state be revised and codified anew; and in accordance with that expression the Twenty-fifth General Assembly provided for the appointment of a commission to make such revision, and to make report to the Twenty-sixth General Assembly; which report was duly made at a large expense to the state; and
>
> Whereas, The Twenty-sixth General Assembly has had the same under consideration and has found itself unable to complete the work of codification within the customary limits of a regular session; and has so declared itself; and
>
> Whereas, Much work has been done upon the proposed code by the committees of that General Assembly, making the members more or less acquainted with its provisions, which work must be done anew, if the codification were postponed until another General Assembly; . . . .
>
> Now therefore, concurring in the views expressed by the General Assembly, as above stated, and believing moreover that experience has demonstrated that a codification of the laws of the state can best be made at a session devoted especially to that work . . . . deeming that an extraordinary occasion has arisen such as is contemplated in the constitution, do hereby convene the General Assembly of the state of Iowa in special session, to be begun and held on Tuesday, the nineteenth day of January, A. D., 1897, at 10 o'clock, A. M., then to proceed with the consideration of the matters herein before set forth.[132]

[131] These events are enumerated in the extra session message of Governor Drake, found in Shambaugh's *Messages and Proclamations of the Governors of Iowa,* Vol. VII, pp. 191–197.

[132] Shambaugh's *Messages and Proclamations of the Governors of Iowa,* Vol. VII, pp. 225–227.

Accordingly on January 19, 1897, the Twenty-sixth General Assembly convened in extra session and continued until May 11th, when it took a recess until July 1st, finally adjourning on July 2, 1897. The session proved longer than was expected, owing to the many important changes made in the statutes. The laws took effect ninety days after final adjournment.[133]

In his extra session message Governor Drake enlarged on the subject of the Code as follows:

> A learned and industrious commission has prepared a revision of existing statutes, and put them, with such changes and modifications as to the commission seemed advisable, in codified form, in which shape the result of their labors has been before you for more than a year. An opportunity has thus been afforded the members of the General Assembly, and to some extent the people at large, to familiarize themselves with the new measures proposed, with the enactments the omission of which is contemplated, with the amendments which are suggested to existing statutes, and with the form which it is proposed to give the body of our statute laws. Therefore, the members of the General Assembly come together prepared, I doubt not, with the aid of the mature deliberation they have been enabled to give to the work, promptly to expedite the business for which the session has been called.
>
> It is gratifying to know that many of the existing laws of this commonwealth have been so founded in wisdom as to commend themselves to statesmen and publicists of not only our sister states, but other lands. Our state officers receive not a few testimonials to this effect. I may mention the legislation pertaining to railroads, to insurance, to dairy interests, and to oil inspection. Let us hope that the matters you have in hand will show a still stronger development of legislation thus found to commend itself.
>
> . . . . . .
>
> It is unnecessary for me to remind the General Assembly that the people of the state are expecting the session to be of brief duration, and I doubt not that you are, as their representatives, in full sympathy with that feeling. Permit me to express the hope that your deliberations will eventuate in a Code of Laws that will give satis-

[133] *Code of 1897*, Preface, pp. iv, v.

faction to the people, while it will anew commend the legislation of this great Commonwealth to approval beyond our borders.[134]

In forecasting the action of the legislature *The Des Moines Weekly Leader* declared that there were two views of what should be done. One group, headed by Governor Drake, maintained that the legislature should confine its activities strictly to those subjects enumerated in the call, while the other group wanted the General Assembly to consider any and all subjects of legislative importance. The *Leader* thought that the "strict constructionists" would seek to pass a resolution that would limit legislative activity, but should this happen the various interests would force the legislators to enact new laws by way of amendments to the Commissioners' report.[135] In fact, the Senate Committee on Code Revision instructed its chairman, Mr. C. A. Carpenter, to "present . . . . a resolution that no bills will be allowed to be admitted except relating directly to code work or to the suggestions of the governor's message."[136]

The Iowa State Register, in noting the convening of the extra session declared that:

The members can make a good impression upon the people by remaining diligently at their work until Saturday night and resuming it on Monday morning. There will be no junkets this year for there is no need of them and we believe that the members will be showing a fine realization of public sentiment if they will work without the customary visits to their homes. They are here on urgent business — or else why an "extraordinary" session?— and the best thing that can be done is to treat the session from first to last, as such. Last winter the members were fulsome in their statements that 30 days, 40 at most, would suffice for the code work. Now let there be a remembrance of those promises and a fulfillment of them. Let

134 Shambaugh's *Messages and Proclamations of the Governors of Iowa,* Vol. VII, pp. 191–197.

135 *The Des Moines Weekly Leader,* Thursday, January 14, 1897, p. 4.

136 *The Des Moines Weekly Leader,* Thursday, January 21, 1897, p. 1.

there be no evasions of those promises now, now that "we are here anyhow".[137]

LEGISLATIVE ACTION AT THE EXTRA SESSION

Shortly after the opening of the extra session, on January 19, 1897, the Speaker of the House appointed five code committees[138] and shortly afterwards Mr. W. W. Cornwall moved that the committee on the distribution of the proposed "Code Revision of the regular session" be ordered to reintroduce the Code into the House and make the same distribution thereof as had been made at the regular session.[139]

On the second day of the session Mr. F. F. Merriam offered a resolution which was adopted, providing that a joint committee of ten should be appointed "to arrange the division of the proposed Code into bills for the purpose of introduction into the respective Houses."[140] This resolution also passed the Senate on the same day.[141] The members appointed by the Speaker of the House were W. S. Allen, J. H. Funk, W. W. Cornwall, M. L. Temple, and H. H. Brighton, two of whom were chairmen of the House Code Revision Committees.[142] President Parrott of the Senate appointed Senators N. M. Pusey, H. L. Waterman, W. H. Berry, A. B. Funk, and C. S. Ranck.[143]

137 *The Iowa State Register* (Des Moines), Friday, January 22, 1897.

138 These committees had about twenty members each, a list of whom can be found in *House Journal,* 1897, pp. 3, 4. Their place and time of meeting may be found on pp. 31, 32. On the afternoon of this day Mr. J. T. P. Power proposed that each chapter be introduced as a distinct bill, while Mr. Parley Finch proposed that each committee in reporting any part of the *Proposed Code* mark on the margin of the bill the place where such parts could be found in former codes. Both resolutions were laid over for further consideration.— *House Journal,* 1897, p. 29.

139 *House Journal,* 1897, p. 5.

140 *House Journal,* 1897, p. 30.

141 *House Journal,* 1897, p. 34.

142 *House Journal,* 1897, p. 36.

143 *Senate Journal,* 1897, p. 36.

On January 22nd the commissioners who had been sent to the interstate meeting on uniform legislation reported to the General Assembly, stating that it was too late to incorporate their report in that of the Code Commission and consequently they were reporting directly to the General Assembly.[144] The reform upon which they laid especial emphasis was the uniform negotiable instruments act.[145]

On January 23, 1897, Mr. Parley Finch introduced a resolution which called for a committee of five whose duties should be "to designate where the laws of the Twenty-sixth General Assembly of a general nature be incorporated in the new code."[146] This was adopted two days later in the House,[147] but failed of concurrence in the Senate.[148] In the meantime, however, a concurrent resolution which had originated in the Senate was adopted by both Houses. It provided that the joint committee of ten above referred to should report to the two houses a common plan for the adoption of the titles and chapters of the *Proposed Code*.[149]

The work of considering the report of the Code Commission was begun early in the extra session and the reports of five divisions of the Code Revision Committee are to be found in the proceedings of the first week of the session.[150] Various code bills were also introduced during this period.[151]

144 *House Journal,* 1897, p. 50. The report was signed by L. G. Kinne, Emlin McClain, and H. O. Weaver.

145 This subject will be mentioned under the discussion of the supplements to the Code.

146 *House Journal,* 1897, p. 62.

147 *House Journal,* 1897, p. 65.

148 *House Journal,* 1897, p. 77.

149 *House Journal,* 1897, p. 65.

150 *House Journal,* 1897, pp. 52, 53, 54, 55, 68, 69, 70, etc.

151 Code bills introduced in the House may be found in the *House Journal,* 1897, pp. 43–57, 74, 75, 361, 364, 378, 550, 737, and 818. Senate code bills received in the House are to be found in the *House Journal,* 1897, pp. 130, 152, 204, 263, 268, 291, 362, 384, 529, 576, etc.

The general laws enacted at the regular session of the Twenty-sixth General Assembly needed to be included in the Code as it would be enacted, so Mr. O. A. Byington of Iowa City offered a resolution on January 22nd, providing that a committee of five should distribute the various laws "to the appropriate Code revision committees".[152] This committee, which consisted of O. A. Byington, Samuel Mayne, H. K. Evans, John T. P. Power, and W. I. Hayes, reported eight days later, on January 30, 1897, assigning all the laws of a general nature to the five committees.[153]

On January 30, 1897, a concurrent resolution was received in the House from the Senate which provided that the committee appointed to divide the *Proposed Code* into chapters be continued and instructed to report what means "if any, can be devised whereby time may not be consumed in unnecessary reading of the several bills in each House."[154] After the resolution had been adopted in the House the joint committee reported on February 9th, making both a majority and a minority report. The majority reported that they were in favor of rushing the work to completion, but they recommended "that each bill should have a full reading in each house before the vote thereon is taken."[155] The minority report, signed by Mr. M. L. Temple, suggested that each bill be read by title only and that nothing except amendments be read before the vote on the bill.[156]

Two weeks had now elapsed since the opening of the

[152] *House Journal,* 1897, p. 51.

[153] *House Journal,* 1897, p. 109.

[154] *House Journal,* 1897, p. 112.

[155] *House Journal,* 1897, pp. 171–174.

[156] *House Journal,* 1897, pp. 174–177.

On the 2nd of February the following concurrent resolution was adopted by the House: Resolved, "that the committees of the two Houses to which have been referred the several Code bills, shall refer before reporting said bills to their respective Houses, in order that an agreement may be had, if possible, on said bills before they are reported." *House Journal,* 1897, p. 129.

extra session and much had been accomplished in the way of committee work. One writer declared that:

> The legislature has completed the second week of the special session, and is now fairly down to routine work on the code. It is pretty well established that no effort will be made to introduce extraneous subjects of radical character into the code work. The revision will be made with the design of restoring, generally, as nearly as possible, the words of the old laws, and many changes have been made in this direction.
>
> The session will not be a short one. Nobody now expects a six weeks' session to complete the work, although many ventured the opinion at the beginning that this would be ample. The general opinion is now that twelve weeks of good work will be needed to complete the code. But with this conviction has come a feeling of confidence that when it is done the work will be a creditable one, and that the time will have been well spent.[157]

On February 6, 1897, Mr. David Brant of Cedar Rapids offered a resolution calling upon the Secretary of State to secure a copyright on the codified laws which were then being enacted.[158] The purpose evidently was to prevent the publication of a private edition which would seriously affect the sale of the official work.[159] The resolution was adopted in the House on the ninth of February,[160] but does not appear to have ever been reported from the Committee on Code Revision to which it was referred in the Senate.[161] The Code, however, was copyrighted by the Editor, E. C. Ebersole, as provided by law.

157 *The Des Moines Weekly Leader,* Thursday, February 4, 1897, p. 2. Other articles concerning the Code are to be found in this paper during the extra session, from January 21, 1897 to May 13, 1897.

158 *House Journal,* 1897, p. 160.

159 Owing to the failure to copyright the *Code of 1873* a private edition was quickly placed on the market.— See Powell's *History of the Codes of Iowa Law* in THE IOWA JOURNAL OF HISTORY AND POLITICS, Vol. XI, pp. 218, 219.

160 *House Journal,* 1897, p. 179.

161 The question of copyrighting, however, was considered at some length in the Senate and this action will be discussed later. See *Code of 1897,* p. 3.

Early in February there appears to have been a considerable amount of discussion concerning the annotation of the Code. Strong arguments were advanced on both sides of the question. The following enlightening article on this subject appeared in one of the Des Moines newspapers, under the heading *Annotating the Code:*

After we get the code, what are we to do with it? This is a question already seriously asked. It seems that when the legislature shall have completed its labors and shall have conned to its satisfaction the various sections, that the state will have by no means reached the end of the expense. The code must have an editor, we are told, and be carefully edited and indexed, and perhaps annotated, before it is given to the public — all of which of course must be paid for by the public.

It is admitted that it will be necessary to edit and index the code, but as to annotation there is doubt. In favor of annotation one optimistic gentleman, with a cast of mind clearly entitling him to be engaged in the next campaign as result predictor, has figured it out that if the state will only annotate the code it will be able to sell many thousand copies, at prices which will in large part repay the state for the expense of code revision and publication. These figures have had an attractive look and many have been wooed by them. But now comes ex-Supreme Court Reporter Ebersole, who is a candidate for code editor, with a long circular letter in which he shivers the annotation proposal. The point of the letter is that annotation could not be accomplished by one man within the constitutional time for the code to go into effect. Mr. Ebersole says that the sovereign state of Iowa would hardly wish to steal the annotation of the McClain or Miller codes, and that mere paraphrasing also would not do; that to annotate the new code de novo would require the most painstaking search through the 100 odd volumes of the Iowa code and the most laborious work in bringing into the text, following each section, the holdings of the supreme court with reference thereto. This would not be the work of months but of years, and in view of this fact the state, certainly not wanting to plagiarize from either Miller or McClain, may profitably let the annotation scheme drop. An annotation commission following the code commission would be a severe dose. It may much be doubted whether,

after it was annotated, if the code would "pay out," even for this part of its preparation. The lawyers of the state, after having been obliged in the matter of having had a new code mode for them, with its opportunities for increased litigation, may properly be asked to hustle their own annotations. The burden should not be shifted upon the public.

Even as to indexing it does not seem that it should be necessary to go to a large expense and get a high priced editor. The index of the new code will not be much different from the index of the old one. The arrangement into chapters is about the same, the sections as far as possible have been preserved, the subjects treated are practically the same, and with the old index as a dummy it should not be the great and erudite task some would have us believe to amend the index. When the code was first indexed the task was a large one, but for the new code most of the work is already done and only necessary changes need be made. The legislature should be cautious about authorizing new code expenditures. It has cost a good deal already. Under present circumstances it would be perhaps unwise to undertake annotation, and for the mere mechanical editing and indexing it is not necessary to go to great expense.[162]

[162] *The Des Moines Weekly Leader,* Thursday, February 11, 1897, p. 4.

In a letter to the writer bearing date of January 18, 1913, Mr. E. C. Ebersole declared that he had not been able to find a copy of this letter but would state the facts relating to it from memory. After stating that he was especially interested in the bill, owing to the preparation of the encyclopedia of law on which he had labored for years, and having had an experience of eight years as Reporter of the Supreme Court, he continues:

"When I considered the bill I concluded that it was impracticable. The code was to be *annotated,* and was to be in print the first of the next October. I thought it my duty to express my opinion to the members of the general assembly, and thus possibly save the state from great inconvenience. Therefore I prepared and had printed a rather lengthy letter and mailed a copy to each member of the legislative body. I was rewarded by receiving promptly a good many letters and telegrams of appreciation.

"The chief point of my letter was that *no number* of annotaters could prepare the annotations in proper manner within the time allotted. Men of experience in such work would not be available, and new men would hardly learn how before the annotations would be called for by the printer. There were other reasons why I thought the work could not be completed within the time, but I do not now clearly recall them. . . .

"I was elected editor by the unanimous vote of the general assembly, and entered upon my duties as soon as it adjourned. I knew that I had an almost

On February 22, 1897, Mr. H. K. Evans of Corydon offered a concurrent resolution in the House which provided for the appointment of a joint committee of two members from the House and one from the Senate, who were to perform various duties.[163] Among these duties were to ascertain the cost of printing and binding five, ten, fifteen, and twenty thousand copies of the Code without annotations, to determine how soon these volumes could be prepared, to consult with the Attorney General and find out whether it would be advisable to copyright the Code, and to report a bill for editing and indexing. When this resolution was called up for consideration it was amended by having the membership increased to three from the House and two

impossible task, and I worked hard through long hours. But I found that members of the general assembly who happened to be in the city, and others interested, would make frequent calls on me to see how it was progressing and to show their good will. This would have been delightful had I not realized, as they did not, that it would defeat the work. I had no time to be a 'good fellow', which I much regretted, but not so much as I would regret a failure to get the code out on time. It must be borne in mind that all prior laws stood repealed October first, and that if the code was not out the courts would be without statute law for the time. To head off this interference I published a printed statement showing the condition of the work, and stating clearly that unless I could have my time without interruption it could not possibly be completed on time. This was a hard dose for me to administer, but it 'worked'.

"In my work as editor I discovered some serious discrepancies in the new statutes, especially affecting cities under special charters, and I made note of them, and called the attention of the city attorneys of the cities of this class thereto, so that when the general assembly met in its last and special session, or rather adjourned session, ending July 2nd, 1897, everything was prepared for the adjustment of these discrepancies, and for the correction of a few palpable errors which had also been discovered.

"I trust that when the code is again revised sufficient time will be allowed to do the work without the extreme pressure that was felt in the editing and publishing of the Code of 1897. That it was finally published within the prescribed time I regard as a lucky accident rather than a normal accomplishment. Any person at all familiar with such work will understand this when the magnitude of the work is considered, and it is remembered that it was all done between the last part of May and the first day of October. Matters of such importance should be done with reasonable deliberation, and the great State of Iowa is well able to pay for the best that can be produced."

163 *House Journal,* 1897, p. 288.

from the Senate.[164] Accordingly, L. A. Ellis and J. H. Trewin were appointed from the Senate and H. K. Evans, C. C. Dowell, and Walter I. Hayes from the House.[165] This committee reported on April 2, 1897, at considerable length, recommending that the State publish an annotated Code in an edition of 15,000 copies. The cost of the first edition was estimated at $2.25 per volume. In connection with the report were two lengthy opinions from the Attorney General in which he gave his opinion in regard to the right of the State to copyright the Code, and also as to the time of taking effect of the laws. In regard to the latter point he held that the legislature had the power to determine the time at which the laws should take effect.[166]

At this point in the extra session newspaper comment was at its height. Current opinion seems to have been that the legislature should make the most of a bad job and finish the work as speedily as possible. The editor of *The Burlington Hawk-Eye* wrote as follows:

> A number of days of personal inspection during the past week of the work of the general assembly; a study of its methods of legislation and a knowledge of the aims and desires of the members, as freely expressed in private conversation, leads the editor of The Hawk-Eye to the conviction that good, honest, earnest work is being done by the peoples' representatives and inspires the confident belief that the result of their efforts will be gratifying to the people. The Hawk-Eye was originally opposed to an extra session, and it still questions the wisdom of a revision of the code at this time when the state could ill-afford the expense; but, revision, having been provided for by the previous general assembly and a vast amount of labor expended upon it by the code commission, at large cost to the state, there seemed to be no other course open to the

164 *House Journal,* 1897, p. 294.

165 *Senate Journal,* 1897, p. 733. Mr. H. K. Evans was the secretary of the committee.

166 These reports may be found in the *House Journal,* 1897, pp. 681–694; and the *Senate Journal,* 1897, pp. 730–743.

26th general assembly than to complete the task. Whether it might not have been better to let the work of the commission go unfinished was a debateable question last winter, but it is so no longer, as now the quickest way out of the perilous stream is to swim for the other shore.

And, to complete the simile, the members are "swimming," with long and vigorous strokes. They are working diligently and faithfully. Few of their constituents are doing harder work. No one can appreciate the magnitude and complexity of the task without personally visiting and watching the process of revision. The details are innumerable and require the most scrupulous care to avoid errors. The previous labors of the code commission shaped the outline and greatly lessened the detail work; but in order to conscientiously discharge their duty to the state the senators and representatives are giving their close personal attention to every item; indeed, to every word and even the punctuation and the possible variance of meaning in the phraseology.

While The Hawk-Eye has urged, and still urges the expediting of the revision, it does not urge, and no citizen can rightly insist upon, haste at the expense of accuracy and completeness. The extra session will require at least three months time and the work, when finished, will be creditable to the state and to its faithful servants who are striving to make the new code as perfect as possible. The legislators are following conservative lines, avoiding radical changes and adhering closely to experience and the dictates of common sense. The product will be the best code the state ever had.[167]

A writer in a Des Moines paper declared:

Four weeks of the session are past and the commonest prediction is that the adjournment will not be reached before April 15, and possibly May 1. The experience of the last week has not been encouraging. The committees have shown that they can do work much faster than the house can pass bills. The senate, for instance, has devoted practically the working time of its sessions for the past four days to the elections bill, and that measure is not yet completed, and some parts of it that have been adopted are in process of reconsideration. And it is an easy measure, compared to many in the revision. It has been found that, however carefully the

[167] *The Burlington Hawk-Eye,* Thursday, February 11, 1897.

committees may do their work, there will be contests and time-killing debates on the floor. Minor points are raised, despite the most skilful piloting, and they are made occasions for elaborate debates with which the members themselves are disgusted after they are over, but there is no help for it.[168]

About the time that the above was written the following article appeared in a Burlington paper:

"I regard code revision as a great mistake," remarked a leading Burlington lawyer to The Hawk-Eye a few days ago. "There was no real need for it. We were getting along very well under our present code; many of the statutes had been passed upon in the courts and the community had adjusted itself to settled conditions. Now everything will be unsettled, and it will be a long time before the real status of Iowa law will be fixed. I admit it will be a good thing for the lawyers, a very good thing, giving them increased business, but it is bad for the public, and as a citizen I regret the revision."

Apropos of this view from the standpoint of a lawyer is the following from the Iowa Capital:

"A member who has been looking up the acts of the legislature of 1874 remarked upon the fact that the session laws of that year were crowded with little amendments of the Code that had been passed in the extra session of 1873. So many errors had crept into it by hasty consideration that it kept the legislature busy the next session correcting these mistakes. The same thing is likely to occur this time, only as there are so many more laws the mistakes are likely to be more numerous. It is inevitable in the consideration of such a large amount of matter. This member thought that it should be a warning to the members to be very careful in their work."[169]

After the joint committee had reported as above noted it introduced House File No. 95, which was a bill for an act to provide for the annotation, indexing, editing, publishing, and distributing of the Code.[170] This, along with a similar house bill, was indefinitely postponed.[171] The question of

168 *The Des Moines Weekly Leader,* Thursday, February 18, 1897, p. 2.

169 *The Burlington Hawk-Eye,* Thursday, February 18, 1897, p. 4.

170 *House Journal,* 1897, pp. 694, 754, 772, and 1006.

171 House File No. 116, in *House Journal,* 1897, pp. 1080, 1082.

annotating the code was only settled in the House after a long and hard struggle, in which Mr. S. Mayne of Bancroft sought to introduce a bill granting the work to Callaghan and Company of Chicago, the publishers of *McClain's Code*.[172]

Much discussion took place during the session in regard to printing the Code. Charges were made that the State Printer and the State Binder were charging exorbitant prices for the State work, and many editors were in favor of letting the Code work out by contract.[173] The legislature finally gave the task to the State Printer by a large vote, refusing to ask for bids.[174] The following is a newspaper comment on this action:

> The printing and binding of the new code should be by a contract, the lowest responsible bidder getting the work. The size of the volume, the number to be printed and the character of the contents being known, the specifications are at hand on which bids may be solicited. It is a single job and a large one. The edition is 15,000 and the number of pages about 2,000. For the binding alone it is

[172] The substitute of Mr. Mayne is found in the *House Journal,* 1897, pp. 830–833. It appears that Callaghan and Company had made an offer to the State to print the Code. At this time there was considerable agitation over the State printing question. The substitute proposed by Mr. Mayne was lost. The following quotation from *The Iowa State Register* (Des Moines), of April 23, 1897, is a comment upon this incident:

"Confronted with the problem of annotating, publishing and distributing the proposed new code, and there being a bill pending for this work to be done by the state, the legislature has begun making inquiries concerning the cost of the work. Friday, McClain and Callaghan, publishers, of Chicago, the former being Chancellor McClain, of Iowa City, author of McClain's Code, made a proposition to publish for the use of the state 7000 copies of the code for $20,000. They agree that the books shall be printed on the best of white paper, bound in the best quality of law sheep and after the supply for the state is furnished, be put on the market for purchase by the public for $5 for each copy."

[173] A great deal concerning the State printing question may be found in the *House Journal* for 1897 and in *The Iowa State Register* (Des Moines), from January to May, 1897.

[174] *House Journal,* 1897, pp. 812, 830, 848–854, 924, 925. The vote stood 20 yeas and 73 nays on the Mayne substitute.

proposed to give the state binder $1 per volume, or $15,000, and the typesetting, proof reading and press work are additional.

There is color of excuse for having a state printer do the miscellaneous work of the state; the kinds of work are so various that it is impossible, in every instance, to tell in advance what would be a fair price. But as to a $20,000 or $25,000 job, such as the printing and binding of the annotated code, with an editor at a large salary and assistants at $10 a day, the legislature has committed a great act of folly. Such a book will find no market. It will not be able to compete against the private annotation of the code. The private annotation of the code is a growth, the result of work extending over many years. It has the confidence of the legal profession, a confidence which a half-baked annotation, prepared hastily under the direction of some favorite of the legislature, cannot expect to gain until it has proven merit. At best the annotation of the code by the state is a woeful waste of money, and is a crowning blunder to the many the legislature has committed in code revision work.

The legislature having made a mistake in ordering the annotation of the code, it will commit a grave abuse if it orders its printing and binding except under conditions to secure the work at the lowest market price. The state printer and binder pretend that they will get no profit at the prices proposed to be given them. If so, it is no unfriendliness to refuse them the work unless their prices are the lowest. But it is mere pretense that there is no profit in the code work. Their anxiety to prevent a letting under contract system proves that it is a pretense. Members of the legislature have said that they were desirous of getting the state's work done at the lowest possible prices. Here is an opportunity to make a trial. Let the code be let by contract. Let bids be invited, and then let the legislature compare prices under the contract system with the prices under the favor system.[175]

Clarkson Brothers, who edited and published *The Iowa State Register,* were perhaps the most bitter of all the editors of Iowa against the system of State printing. One of their articles reads as follows:

At least 50,000 and perhaps 100,000 copies of Iowa's new code will be sold, if it is properly annotated, before the laws of Iowa are

[175] *The Des Moines Weekly Leader,* April 15, 1897, p. 4.

again wholly revised. Iowa should annotate, copyright and publish her own code; and can do so cheaply and profitably by letting her printing and binding to the lowest responsible bidders. Callaghan & Co., and other law book publishers, make a harvest field of Iowa because this state continues to pay enormous prices for state printing and binding. Callaghan & Co. have probably made at least $100,000 clear profits on "McClain's Annotated Statutes," and a large proportion of that profit should have gone into Iowa's state treasury. The only relief for Iowa from enormously extravagant prices for state binding and state printing, will be through letting all the state printing and binding to the lowest responsible bidders "under adequate and satisfactory security for the performance thereof," just as Michigan does and has been doing ever since the constitution of that state was adopted.[176]

In a later number the same paper declares: "A level price of $1 for binding the new codes, 15,000 of them! A $1 — that is what they bind single copies for, but when it comes to 15,000 of them. Look out for innocent Senegambians of ebony hue."[177]

By two resolutions introduced on April 30, 1897, it was suggested that the editor of the Code, together with the House members of the supervising committee, be elected on the following Tuesday, May 4th.[178] Accordingly on the evening of that day the two houses met in joint session and gave a unanimous election to Mr. E. C. Ebersole of Tama County — there being 111 votes cast.[179] In the afternoon session the House elected Mr. Parley Finch, Mr. W. W. Cornwall, and Mr. J. T. P. Power as its members of the Code Supervising Committee.[180] Previously a resolution was adopted calling on the Code Supervising Committee to

[176] *The Iowa State Register* (Des Moines), Friday, March 5, 1897.

[177] *The Iowa State Register* (Des Moines), Friday, April 16, 1897.

[178] *House Journal,* 1897, pp. 935, 937.

[179] *House Journal,* 1897, pp. 981–983.

[180] *House Journal,* 1897, pp. 980, 981. Senators J. H. Trewin and L. A. Ellis were chosen from the Senate.

make an itemized statement of all its expenditures and submit the same to the Auditor of State.[181]

On May 5th a joint resolution was received from the Senate and passed by an overwhelming vote, allowing the use of the committee rooms in the capitol to the Code Supervising Committee. In addition this committee was allowed necessary supplies such as stationery and stamps.[182]

At the close of the session the question of annotation again bobbed to the surface. The act authorizing the publication and annotation of the Code authorized the employment of not less than three annotators at $10 per day.[183] The Code Supervising Committee saw the impracticability of this plan, owing to the short length of time allowed, and accordingly entered into negotiations with Mr. Emlin McClain, who had the annotations very nearly up to date. Mr. McClain offered to annotate the Code for $7500 and to perform certain other tasks in connection therewith.[184] On May 10th, therefore, the Supervising Committee asked that the original act be so changed as to enable them to accept Mr. McClain's offer. The legislature accepted the view of the committee and passed the resolution as requested.[185]

On May 11, 1897, the legislature adjourned until July 1, 1897, in order to give the Code Supervising Committee and the Code Editor time to complete their work within 90 days after final adjournment, as the Constitution provided that all laws passed at an extra session should take effect ninety days after adjournment.[186] When the General Assembly met pursuant to adjournment, on July 1st, Mr. Par-

181 *House Journal,* 1897, p. 973. See also p. 977.

182 *House Journal,* 1897, pp. 1000, 1003.

183 *Laws of Iowa,* 1897, Ch. 20, Sec. 5, p. 24.

184 *House Journal,* 1897, pp. 1057–1059.

185 *Laws of Iowa,* 1897, pp. 47, 48.

186 *Constitution of Iowa,* Art. 3, Sec. 26, in the *Code of 1897,* p. 86.

ley Finch submitted a report from the Code Supervising Committee which is very interesting and instructive. The Committee had met on May 7th and had organized by electing Mr. J. H. Trewin, Chairman; L. A. Ellis, Vice Chairman, and Parley Finch, Secretary. They then explained the contract entered into with Mr. Emlin McClain, the method of doing the work, and closed their report by declaring that "your committee is confident that the Code will be completed by October 1, 1897."[187]

In his speech at the close of the session Speaker H. W. Byers reviewed the history of the Code down to the close of the extra session. After tracing it through two sessions of the legislature he declared that the "Black Code" was "a marvel of excellence and accuracy."[188]

The action of the House of Representatives on the *Proposed Code* at the extra session of the Twenty-sixth General Assembly was long and tedious. To follow its intricate details would be tedious and of small value, but it may be safely said that the House showed a commendable spirit of industry in dealing with the many and various questions brought before it.[189]

The action of the Senate upon the *Proposed Code* was

[187] *House Journal,* 1897, pp. 1078–1080.

[188] *The Des Moines Weekly Leader,* Thursday, May 13, 1897, p. 2. This may also be found in the *House Journal,* 1897, pp. 1062–1066.

[189] *The Des Moines Weekly Leader* on Thursday, May 13, 1897, after calling attention to the fact that the session had extended over 113 days and was very long and expensive, and that the direct cost of the Code would not be much less than $300,000, declared that "the legislature seems to have worked hard", and remarked that:

"Most of the work of the session was of an exceedingly dry and technical character, the consideration of the details of the laws in regard to which there is not dispute. Few changes, taken as a whole, have been made in the old laws. The statutes have been rewritten, and, it is claimed, simplified, the obsolete and the contradictory being eliminated, but for the most part the substance has not been altered. In view of this fact, there are many who now think that the whole movement for a new code was conceived in folly, and that the state lunged into entirely needless expense."

likewise very elaborate and intricate, and follows to a large degree the same plan as adopted in the House of Representatives.[190] On the first day of the session Senator L. A. Ellis presented two resolutions, one providing that no new subjects of legislation should be considered until the work on the Code was finished, except under certain considerations, and the other providing that eight men from the House and seven from the Senate be appointed to "select and determine the titles or parts of titles of the Code reported by the Code Commission, to be introduced in each body as House bills and Senate bills, and recommend a course of procedure to facilitate the business of this legislature." Both of these resolutions were "laid over."[191]

On the second day of the session two more resolutions were offered dealing with the mode of procedure. Mr. C. A. Carpenter of the Code Revision Committee offered one which provided that the Senate should limit its action to certain measures.[192] Mr. J. H. Trewin suggested that the proposed revision be referred to the Committee on Code Revision, which should divide it and assign the different parts to the various standing committees, and this suggestion was adopted.[193] Shortly after Senator Trewin's resolution was referred a concurrent resolution was received from the House asking the appointment of a joint committee of ten to arrange for considering the Code. This was likewise referred to a committee and, upon a favorable report, was adopted by the Senate.[194]

190 The general laws passed are enumerated in the *Senate Journal,* 1897, p. 1215. A partial list of the code bills introduced into the Senate may be found on pages 43–46 and 53–56.

191 *Senate Journal,* 1897, p. 32.

192 *Senate Journal,* 1897, p. 33.

193 *Senate Journal,* 1897, p. 33.

194 *Senate Journal,* 1897, pp. 34, 35, 36. The reports of this committee may be found on pp. 47, 48, 57, 66, and 80.

On January 21, 1897, the third day of the session, Senator Trewin introduced Senate File No. 1, which was a bill "to provide for annotation, indexing, publication, distribution and sale of the Code and statutes hereafter enacted". After a stormy career, both in the House and in the Senate, and after having been considerably amended, it was enacted into law,[195] although by a later act, proposed by the Code Supervisory Committee, it was again amended before the close of the session.[196]

On January 28, 1897, Senator Trewin from the Committee on Code Revision presented a report distributing the laws of the Twenty-sixth General Assembly to the various standing committees to be by them incorporated into the *Proposed Code*.[197]

Later, on February 25, 1897, Senator Trewin offered the following resolution, which was adopted in both branches of the legislature:

WHEREAS, The rules of the supreme court have been amended from time to time and it is desirable to have them revised and published with the Code; therefore, be it

Resolved by the Senate, the House concurring, That the judges of the supreme court be and are hereby requested to revise the rules of said court so that the same may be published with the Code.[198]

[195] *Senate Journal,* 1897, pp. 37, 896, 979, 983, 1008, 1013, 1017, 1025, 1027, 1043, 1045, 1052, 1061, 1062, 1088, 1089, and 1209.

[196] *Senate Journal,* 1897, pp. 1221, 1223, 1229, and 1230.

[197] *Senate Journal,* 1897, pp. 81–83.

Various other resolutions looking to the speedy consideration of the Code were introduced. The report of the committee in regard to dispensing with the reading of the Code may be found on pp. 194–197.

On February 9th a resolution was also adopted in the Senate which stipulated that "the President of the Senate and the Speaker of the House, be requested to separate Code bills for consideration of the two houses in such a way as that bills first considered in one house shall be considered in the other house as messages from the house in which they were first considered."—*Senate Journal,* 1897, pp. 198, 204, 206.

[198] *Senate Journal,* 1897, pp. 337, 383.

On the same day, upon the motion of Senator William B. Perrin the Committee on Code Revision was instructed to consider the advisability of incorporating a section or sections providing for proof of lost wills.[199] Accordingly on March 9th William B. Perrin, J. M. Junkin, and William Eaton presented such a provision for the action of the Senate.[200]

The House resolution relative to printing the Code was received from the House on February 23rd and was concurred in on the following day.[201] On February 23rd, also, Senator L. A. Ellis introduced a resolution calling for a joint committee of five "to obtain information and report to the respective houses in regard to the desirability of providing for the annotation of the proposed new Code by this General Assembly."[202] The question of annotation has already been discussed in connection with the consideration of the *Proposed Code* in the House, and the above resolution was one of the steps in this controversy.

About the middle of March a resolution was received from the House which called for the appointment of a joint committee of six — three from each house — to supervise the work and to keep in touch with the progress made, and to report from time to time.[203] On April 3rd Senator Thomas Bell introduced a resolution calling on this committee to make reports, but the committee does not seem to have complied with the intent of the resolution.[204]

On the third of May two very important resolutions were introduced in the Senate. One provided for an adjourn-

199 *Senate Journal,* 1897, p. 347.

200 *Senate Journal,* 1897, pp. 452, 453.

201 *Senate Journal,* 1897, pp. 319, 331.

202 *Senate Journal,* 1897, p. 316.

203 *Senate Journal,* 1897, pp. 550, 560.

204 *Senate Journal,* 1897, p. 744. The resolution of Senator Bell was "laid over".

ment to July 1st, and was later adopted.[205] The other provided for the election of the Senate members of the Code Supervisory Committee. On the following day the election was held and on the first ballot Senator L. A. Ellis received 25 ballots, James H. Trewin 16, and B. F. Carroll 4. Senator Carroll moved that the two receiving the highest number of ballots be declared elected, and the vote upon the motion was unanimous.[206]

THE CODE SUPERVISING COMMITTEE

The Code Supervising Committee was a new development in the history of the codes of Iowa law. The *Code of 1851* was edited by one man; the *Revision of 1860* was also edited by a single individual, who was assisted in certain matters by the Census Board, and the *Code of 1873* was prepared by a single editor under a statute giving explicit directions. For the first time, therefore, a committee of the General Assembly was appointed to supervise the work of the Code editor.

The chairman of the committee was James H. Trewin of Lansing, who with Lyman A. Ellis, the vice-chairman, was one of the most influential members of the legislature in the consideration of the Code. Mr. Trewin was born near Bloomingdale, Illinois, on the 29th of November, 1858, and removed to Iowa in 1872, where he was admitted to the bar ten years later, in 1882. During the Twenty-fifth General Assembly he served in the House of Representatives, while he was a member of the Senate from the Twenty-sixth to the Twenty-ninth General Assemblies, inclusive. At present Mr. Trewin is engaged in the practice of law in Cedar Rapids and is President of the State Board of Education. He is a Republican in politics.[207]

205 *Senate Journal,* 1897, p. 1101.

206 *Senate Journal,* 1897, p. 1110.

207 Gue's *History of Iowa,* Vol. IV, p. 266.

Lyman A. Ellis, the other Senate member of the Committee, was likewise a Republican in politics. Senator Ellis was born in Vermont on March 11, 1835, and came to Iowa in 1861, locating at Lyons. He served as District Attorney for a time and in 1893 was elected to the State Senate where he served during the consideration of the *Code of 1897*.[208]

Mr. Parley Finch of Humboldt, the secretary of the commission, was a Republican in politics and was one of the three members appointed from the House of Representatives. Mr. Finch was born in Bradford County, Pennsylvania, in September, 1844. After removing to Iowa he read law and was admitted to the bar in 1871. He served several terms in both branches of the legislature.[209]

Mr. W. W. Cornwall, of Spencer, the other Republican Representative on the committee, was born at Albion, Dane County, Wisconsin, on February 10, 1857. After his graduation from the University of Wisconsin in 1881, he located in Iowa and represented his district for two terms in the House of Representatives. Since 1902 he has held the position of Reporter of the Supreme Court.[210]

The only Democratic member of the committee was Mr. John T. P. Power of Keokuk, who served in the House during the Twenty-sixth and Twenty-seventh General Assemblies.[211]

The editor of the Code was Mr. Ezra C. Ebersole of Toledo, who was born at Mt. Pleasant, Pennsylvania, on the 18th of October, 1840. His education was received at Otterbein University and at Amherst College, from which he graduated in 1862. After serving a short enlistment in the army he taught at Western College and at the State Univer-

208 Gue's *History of Iowa*, Vol. IV, p. 87.

209 *The Courts and Legal Profession of Iowa*, Vol. II, pp. 692, 693.

210 *History of Clay County, Iowa*, 1909, pp. 428–430.

211 *Iowa Official Register*, 1911–1912, p. 105.

sity at Iowa City. From 1883 until 1891 Mr. Ebersole was the Reporter of the Supreme Court of Iowa, and he has published an *Encyclopedia of Iowa Law*.[212]

Justice Emlin McClain, who furnished the annotations, has already received notice in this paper.[213]

THE PREPARATION OF THE CODE

Immediately after their appointment, the editor and the Code Supervising Committee set to work on their task. The laws were first read and apparent errors, such as mistakes in punctuation, were corrected. The Code Supervising Committee then relieved Mr. Ebersole of all other duties and for two months he spent all his time on the index. The proof reading was done by Mrs. C. A. Neidig and Miss Capitola Mardis, who were the clerks of the committee.[214]

The annotations, as before noted, were furnished by Mr. Emlin McClain, who was assisted by Mr. Theodore Anderson, who was connected with the Law College of the State University.[215] The proof of the annotations was read by Mr. McClain.[216] According to the report of the committee, the price of the Code, including annotations, had been reduced from thirteen dollars to five dollars per volume, while the actual cost of producing amounted to only two dollars and fifty cents per copy. The profit thus made was expected to pay for the book in due time.[217] The plates from which

[212] Gue's *History of Iowa,* Vol. IV, p. 85. See also *The Courts and Legal Profession of Iowa,* Vol. II, pp. 1024, 1025.

[213] See note 37 above.

[214] *Code of 1897,* Preface, p. v.

[215] Mr. Theodore Anderson was librarian of the Law School of the State University of Iowa for a time and prepared a brief manuscript on the *History of the Iowa Codes* which has been of material assistance to the writer. Mr. Anderson's paper has never been published. Mr. Ralph Otto, who assisted Mr. Anderson, was subsequently an attorney in Iowa City, Mayor of Iowa City, and is now on the faculty of the College of Law of the State University of Iowa.

[216] *Code of 1897,* Preface, p. v.

[217] *Code of 1897,* Preface, p. v.

the Code was printed were electrotyped by the Star Engraving Company of Des Moines and deposited with the Secretary of State, and as will be seen, were used in the publication of a second edition in 1902. The printing was done by F. R. Conaway, the State Printer, and the binding was done by Lafayette Young, the State Binder. There was considerable discussion at the time concerning the binding of the Code, as has already been noted.[218]

The act providing for the publication of the Code required the editor to secure the copyrighting of the work, "and its entire arrangement and publication,"[219] and then to assign the copyright to the State of Iowa. The act also further provided that the *Code of 1897* should be "the official edition and the only authoritative publication of the existing laws of the state."[220] As a consequence, there has been no private compilation since 1897 to compete with the official publication, although a large number of advertising pamphlets containing the laws of Iowa have been distributed.[221] The act also called for an edition of 15,000 volumes, which were to be ready for distribution by October 1, 1897.

CONTENTS OF THE CODE

The Code as finally published consists of 2362 printed pages, the contents of which are arranged under twenty-six titles, each of which is divided into chapters, and these in turn into sections, of which there are 5718.

Immediately following the title page is the preface and

218 See above notes 157 and 172.

219 *Code of 1897,* Sec. 11, p. 3.

220 *Code of 1897,* Sec. 27, p. 5.

221 These advertising booklets are often distributed by banking institutions. Two examples of such booklets which might be mentioned are *Iowa Laws Made Plain* presented by the Iowa City State Bank, 1912, and *Laws of Iowa — Condensed Edition of the New Code of 1897* which was a supplement to *The Evening Gazette* (Cedar Rapids), Vol. XV, No. 312, Saturday, January 8, 1898.

an editorial note, dated September, 1897, in which Mr. Ebersole, the editor, states that the synopsis of the Constitution of the United States was taken from Hough's *American Constitutions*. He further declares that he also availed himself of "all the helps and suggestions to be derived from other indexes of substantially the same subject-matter."[222]

Following a table of contents there is considerable space devoted to tables of "Corresponding Sections". In these tables it is possible to find the sections containing the same subject-matter in *McClain's Annotated Code* of 1888 and in the session laws of the Twenty-third to Twenty-sixth General Assemblies, inclusive.[223]

In addition to the laws passed by the legislature, the Code contains the Rules of the Supreme Court,[224] and the temporary provisions which related to the publication of the Code.[225] Several important State and federal documents, such as the Declaration of Independence, the Constitution of the United States, the Ordinance of 1787, and the Constitution of Iowa, are also to be found preceding the laws which constitute the "Code".[226] The annotations cite the Iowa reports except in certain cases where the *Northwestern Reporter* is cited and in the case of Federal decisions, where the *Federal Reporter* is cited.[227]

It is manifestly impossible to enter into a discussion concerning the numerous changes and new sections to be found

[222] *Code of 1897*, Preface, p. vii.

[223] *Code of 1897*, Preface, pp. xi and xxiv.

[224] The rules of the Supreme Court were adopted at the May Term, 1897, and were to take effect October 1, 1897. They consist of 108 sections and are to be found in the *Code of 1897*, pp. 2151–2167.

[225] *Code of 1897*, pp. 1–5.

[226] *Code of 1897*, pp. 6–111.

[227] The *Northwestern Reporter* is cited on pp. 489, 476, and the Federal reports at p. 473 of the *Code of 1897*.

in the *Code of 1897*.[228] Two new sections concerning corporations, however, may be found in sections 1640 and 1641, providing for the dissolution of a corporation and the appointing of receivers therefor, and granting certain rights of property to foreign corporations.[229] Another new section concerning corporations is the one providing for a form of acknowledgment in the conveying of real estate. This form appears to have been recommended by the American Bar Association in 1882.[230] But the most unusual of the corporation provisions is, perhaps, section 1608 which reads as follows:

> Except as otherwise provided by law, a single person may incorporate under the provisions of this chapter, thereby entitling himself to all the privileges and immunities provided herein, but if he adopts the name of an individual or individuals as that of the corporation, he must add thereto the word "incorporated."

Professor Horace L. Wilgus declares that so far as his knowledge extends, Iowa "is the only state that permits this."[231] The section, however, is to be found in the *Code of 1851* and the succeeding Iowa codes.[232]

One of the important new chapters which may also be noted is the one which contains the collateral inheritance tax law passed the previous year by the Twenty-sixth Gen-

228 In the *Code Supplement of 1907* may be found a table giving the corresponding sections in all of the codes of Iowa law. A glance at this table will show the reader whether the particular section is new in the *Code of 1897*.

229 See Horack's *Some Phases of Corporate Regulation in the State of Iowa* in THE IOWA JOURNAL OF HISTORY AND POLITICS, Vol. II, p. 515.

230 *Code of 1897*, Sec. 2959. This form was recommended by the American Bar Association in 1882. (5 Report 304.) A list of the other States that have adopted the same form is to be found in Wilgus's *Cases on the General Principles of the Law of Private Corporations*, Vol. I, pp. 863, 864.

231 Wilgus's *Cases on the General Principles of the Law of Private Corporations*, Vol. I, pp. 889, 890.

232 *Code of 1851*, Sec. 702; *Revision of 1860*, Sec. 1179; *Code of 1873*, Sec. 1088.

eral Assembly.[233] The school laws, which are contained in Title XIII are codified in logical order.[234]

Many of the chapters relating to various State boards and officials appear for the first time in a code of Iowa statutory law. Among such may be mentioned the chapters relating to the Geological Survey, to the Inspectors of Petroleum Products, to the Dairy Commissioner, and to the Fish and Game Warden.[235] The last mentioned chapter contains three new sections, one of which abolishes the office of fish commissioner; another provides for the appointment of deputy game wardens, and one makes it a punishable offense for a common carrier to receive any game for transportation, contrary to the provisions of the chapter.[236]

In 1887 the District Judges of the State had met in convention at Des Moines pursuant to an act of the legislature and had laid down certain "Rules of Practice". These are to be found at various places in the *Code of 1897* in the chapters relating to pleading and trial of actions.[237]

The great number of annotations made the *Code of 1897* a very bulky book. Nevertheless, they have been of great aid to the legal profession, though misleading perhaps, in some instances, to the layman. This fact is well stated by Mr. Ebersole as follows:

> Non-professional readers of the Code need to be advised that the *annotations* do not always express the law as it is today. They are notes of decisions rendered upon *prior* and often very *different* statutes. For example, under section 2357 of the Code is a note of a decision in 58 Iowa, 256, in relation to the liability of a party to

[233] *Code of 1897,* pp. 550–553, Secs. 1467–1481.

[234] *Code of 1897,* pp. 906–972, Secs. 2621–2857.

[235] *Code of 1897,* Title XII, Chs. 10, 11, 13, and 15.

[236] *Code of 1897,* Secs. 2563, 2562, and 2557, respectively.

[237] This convention was provided for by Ch. 134 of the *Laws of the Twenty-first General Assembly of the State of Iowa.* The rules of practice as adopted are to be found in *McClain's Annotated Code and Statutes,* 1888, Vol. I, pp. lvii–lix.

aid in the erection of a partition fence. That decision was based upon a statute which is now repealed, and is no longer the law of the state. Section 2355 now fixes the liability of adjoining land owners to contribute to partition fences. Again, under section 3376 of the Code are found notes of many decisions holding that when a man wills to his wife a portion of his real estate, and fails to say that it is in lieu of her dower, she will take dower also, unless in the nature of the case she cannot take both. Such *was* the law, but it is so no longer; for section 3270 now declares that in such a case the portion given to the wife shall be *presumed,* unless the intention is clear and explicit to the contrary, to be in lieu of her dower. It might be asked, Why then were those notes inserted? For the common people they would better have been omitted, but for the lawyer, who often needs to understand the *history* of legislation and judicial decisions, they are of great value.[238]

The legislature was responsible for including the annotations of all the decisions of the Supreme Court, for the act providing for the publishing of the work decreed that the three competent attorneys who should be employed to do the work should include all the decisions of the State Supreme Court, as well as of the United States Supreme Court and other Federal courts when interpreting Iowa statutes.[239]

In his biennial message to the legislature of January 11, 1898, Governor Francis M. Drake commented on the new Code as follows:

> Besides the usual legislation there was required a revision of all the laws of the state and the formation, adoption, and publication of the new code, which, put into a magnificent volume, is now in the hands of the people for their information and convenience. This of itself required much time and labor, but its great benefit to the state amply compensates therefor.[240]

In the same message Governor Drake called the attention

[238] Ebersole's *Encyclopedia of Iowa Law,* Sec. 32, pp. 13, 14.

[239] *Laws of Iowa,* 1897, p. 24.

[240] Shambaugh's *Messages and Proclamations of the Governors of Iowa,* Vol. VII, p. 123.

of the legislature to discrepancies in the Code, declaring: "A few defects (very few in view of the magnitude of the work) have been met with in the new code, which require action by the general assembly."[241]

There is no doubt that in the limited time in which the work on the Code was prosecuted a considerable number of inaccuracies of varying degrees of importance were made, and these soon became manifest. As a consequence many amendments and additions to Code sections are to be found in the session laws of 1898. It must be admitted, however, that in view of the magnitude of the undertaking and the limited time in which the work was done, the *Code of 1897* is remarkably free of errors.

There was little subsequent legislation concerning the *Code of 1897*. During the session of 1898, the Code Supervising Committee made its report. This report is very clear and gives a splendid account of the progress of the work on the Code from the time of the appointment of the Code Supervising Committee on May 4, 1897, until the completion of the work. After describing in detail the method of carrying on the work it mentions one phase of the proceeding which is very interesting in relation to the preparation of the Code. It appears that Mr. Emlin McClain had a contract with a Chicago law publishing firm, and when a contract was entered into between Mr. McClain and the State, this firm started legal proceedings. This incident is best described in the words of the Committee:

> After about 1,500 pages of the code had been electrotyped and printed, Callaghan & Co., a law book publishing house of the city of Chicago, and the publishers of McClain's annotated code of Iowa, under contract with him, brought suits in the United States court at Dubuque and Des Moines, to enjoin Mr. McClain from furnishing annotations for the code and to enjoin the state printer from print-

[241] Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. VII, p. 182.

ing annotations, alleging in substance that said Emlin McClain was under contract with said company to furnish annotations to it only, that it was the owner of the annotations to McClain's codes of 1884 and 1888, which he was using in annotating the code, and that the state through the General Assembly and its committees, had notice and knowledge of such alleged facts and the terms of the contract.

Upon the hearing of the applications for injunctions before Judges Shiras and Woolson of Dubuque and Des Moines respectively, it was conclusively established that McClain's codes were copyrighted in his own name and that neither the General Assembly nor any of its committees or members had any knowledge or notice whatever of the terms of the contract between Callaghan & Co. and McClain or of the nature of the business relations existing between them. The injunctions were denied and Mr. McClain completed his contract.[242]

The report then states that the printing of the *Code of 1897* had been completed about September 20, 1897, and that a number of copies were delivered prior to October 1, 1897. On account of some errors made in constructing the work it became necessary to cut out the erroneous pages and to paste in corrected pages. The committee also states that many lawyers made requests to have the *Northwestern Reporter* cited in the annotations, in addition to the State reports, but that the Code was partly printed before such requests were made, and in the absence of legislative authorization, it was thought best to omit such citations.

Another interesting part of the report is the appendix consisting of the three divisions, the first of which gives a copy of the contract entered into with Mr. McClain, and the last two being itemized expense accounts. From these it may be learned that the actual cost of the Code, as determined by the committee, was $40,200.68, or $2.68 a copy for the edition of 15,000. The cost to purchasers of the Code was likewise reduced from $13.00, the price paid for *McClain's Code,* to $5.00.

242 *House Journal,* 1898, pp. 90, 91. The report may be found on pp. 89–99.

The binding used on the Code was a cause of much newspaper discussion as has already been noted. The committee, evidently for the purpose of learning the true facts, employed Mr. P. C. Kenyon of Des Moines, a practical binder, to make an examination of the materials used. His report to the committee was that the materials used were of the very best grade.

Two other actions were taken at this session of the legislature in regard to the Code. One was a concurrent resolution which originated in the Senate, providing for the furnishing of a copy of the Code to the Federal courts in Iowa.[243] The other, as finally enacted, was a bill amendatory to the law providing for the publication of the Code, passed by the extra session of the Twenty-sixth General Assembly, and permitted State officials to publish extracts from the laws pertaining to their departments in their annual or biennial reports.[244]

Two years later, in 1900, there was some minor legislation relative to the Code. The bill just mentioned was again amended so as to read: "The executive Council may also authorize the publication by private individuals of extracts from the laws."[245]

Perhaps the most important act at this session relative to the Code was the passage of a bill, which originated in the Senate, providing for the appointment of a joint committee of three from each house whose duties were to "carefully revise and codify all the special assessment laws, and such other laws in relation to the government of municipal corporations, as may be by the committee deemed necessary and expedient, and recommend such changes therein as may

[243] *Senate Journal,* 1898, p. 264; *House Journal,* 1898, p. 296.

[244] *Laws of Iowa,* 1898, Ch. 1, p. 13. A substitute proposed in the House may be found in the *House Journal,* 1898, p. 600.

[245] *Laws of Iowa,* 1900, Ch. 1, p. 1.

be desirable."[246] The committee was also instructed to make its report to the Twenty-ninth General Assembly in the form of a bill and also to make an explanatory report. The Speaker of the House appointed Representatives George W. Dunham of Manchester, Charles J. Wilson of Washington, and William Theophilus of Davenport as members of this committee;[247] and the President of the Senate appointed Senators James H. Trewin of Lansing, Thomas D. Healy of Fort Dodge, and W. A. McIntire of Ottumwa.[248]

In 1902 the Twenty-ninth General Assembly provided for a second edition of the Code, of 7500 copies. The work was to be superintended by the Code Supplement Supervising Committee which was given power to correct the plates where errors occurred, to change the citations from the *Northwestern Reporter* to the Iowa reports and to insert the index prepared for the *Code Supplement* rather than the regular index, or to omit the index altogether and publish only references to the "amendments and subsequent enactments."[249]

The edition of 7500 additional copies of the Code was accordingly made at a cost of $14,063.37, or $1.88 per volume — the binding alone costing $1.10 per volume.[250] The second edition of the Code contains thirty-four more pages than the original. In addition to the preface, there are tables showing where the corresponding section may be found in the *Code of 1873* and in the session laws from the Fifteenth up to and including the Twenty-sixth General Assembly. Another table cites all the cases in the Code,

246 *Laws of Iowa,* 1900, Ch. 176, pp. 128, 129.

247 *House Journal,* 1900, p. 1241.

248 *Senate Journal,* 1900, p. 1097.

249 *Laws of Iowa,* 1902, Ch. 211, p. 164.

250 The report of the Code Supplement Supervising Committee on the second edition of the Code may be found in the *House Journal,* 1904, pp. 681, 682.

reference to which is given in the *Northwestern Reporter,* showing where such cases may be found in the official reports. Some of the cases thus listed are not to be found in the Iowa official reports. A third table shows all the sections in the *Code of 1897* that were amended and repealed by the Twenty-seventh, Twenty-eighth, and Twenty-ninth General Assemblies.[251]

The first supplement to the *Code of 1897* was issued in 1902 and the subsequent legislation deals largely with the various supplements. Very few copies of the Code are being sold at the present time, the sales during the year 1910 amounting to only $266.50.[252]

THE CODE SUPPLEMENT OF 1902

When the *Code of 1897* was under discussion one of the chief objections to it was that it would be out of date in a very short time and the State would be put to great expense in keeping such a volume up-to-date. This objection was answered by the statement that at regular intervals a supplement could be issued. A provision was placed in the act which provided for the publication of the *Code of 1897* to this effect, and, accordingly, during the session of the Twenty-ninth General Assembly, action was taken to provide for such a work.[253]

The Twenty-ninth General Assembly met on the 13th day of January, 1902.[254] Eight days later, in the Senate, Mr. James H. Trewin introduced Senate File No. 1, which was a bill for an act to provide for compiling the laws of all the sessions of the legislature held since the appearance of the *Code of 1897*.[255] This compilation was to include the anno-

[251] *Code of 1897* (Second Edition), pp. xxiv-1–xxiv-31.

[252] *Iowa Official Register,* 1911–1912, p. 195.

[253] *Code Supplement of 1902,* Preface. See also *Code of 1897,* Sec. 24, p. 5.

[254] *Senate Journal,* 1902, p. 1.

[255] *Senate Journal,* 1902, p. 67.

tations of decisions rendered up to and including the May (1902) term of the Supreme Court. It was to be a supplement to the Code and there was also a provision in the bill for the appointment of a supervising committee.

On the 6th of February, Chairman Thomas D. Healy of the Judiciary Committee reported the above bill to the Senate with the recommendation that it be passed.[256] Later in the same day, on motion of Senator Trewin, the bill was unanimously adopted in the Senate.[257] One week later, in the House, on motion of George W. Clarke, the bill was likewise passed without a dissenting vote.[258]

On March 4, 1902, Senator Trewin introduced a bill calling for the publication of a second edition of the Code. This was finally passed by both houses, also without any dissenting votes.[259]

It will be recalled that a Municipal Code Committee had been appointed in 1900 to revise and codify the laws relating to special assessments in cities.[260] This committee made a very full and complete report to both houses and a bill was introduced providing for a system of accounts in cities, but after some consideration it was dropped.[261] Sev-

256 *Senate Journal,* 1902, p. 191.

257 *Senate Journal,* 1902, p. 195.

258 *House Journal,* 1902, pp. 307, 308.

259 *Senate Journal,* 1902, pp. 440, 506, 556, 557; and *House Journal,* 1902, pp. 723, 780.

260 *Laws of Iowa,* 1900, Ch. 176, pp. 128, 129.

261 It appears that the Municipal Code Committee was appointed as a result of the efforts of the League of Iowa Municipalities. It considered many recommendations submitted to it by the League and took favorable action on most of them. One writer declares that "very few changes in the municipal law not recommended by the League were made." The Iowa State Bar Association also appointed a committee, consisting of George W. Ball of Iowa City, William H. Baily of Des Moines, C. W. Bingham of Cedar Rapids, J. W. Bollinger of Davenport, and J. H. Quick of Sioux City, to report on certain municipal laws, which after being considered by the Association were to be referred to the Municipal Code Committee. The report of the above committee of the State

eral other bills relative to municipal government were, however, passed.[262]

The act which provided for the *Supplement of 1902* states that an edition of 15,000 should be printed, which should conform in size, type, arrangement, and other details, as nearly as possible to the Code, and when finished, should be distributed and placed on sale at $2.00 per volume. The work was to be completed by September 1, 1902.

The act further provided for the appointment of a Code Supplement Supervising Committee which was to have the general supervision of the work. It also appropriated $1500 for the compensation of the editor of the Supplement, who was to be responsible to the above committee. These men were to incorporate in the Supplement all the general laws of the Twenty-seventh to Twenty-ninth General Assemblies. The numbering was also provided for, sections added to Code sections being numbered with a letter after the original section number, as Sec. 100-a.[263]

The Senate appointed James H. Trewin of Lansing, W. P. Whipple of Vinton, and Claude R. Porter of Centerville; and the House of Representatives appointed Frank S. Payne of Centerville, W. K. Barker of Cresco, and Albert W. Hamann of Davenport, as members of the Code Supplement Supervising Committee.[264] These gentlemen pur-

Bar Association was made in 1901.— See *Proceedings of the Iowa State Bar Association,* 1900, p. 164; and 1901, pp. 116–121; *Midland Municipalities,* Vol. II, No. 3, June, 1901, pp. 70–72; and Horack's *The League of Iowa Municipalities* in THE IOWA JOURNAL OF HISTORY AND POLITICS, Vol. I, pp. 202–204.

[262] For a list of some of these bills see *Senate Journal,* 1902, pp. 259, 260.

[263] *Laws of Iowa,* 1902, Ch. 194, pp. 147–149.

It might here be noted that in 1902 the Executive Council authorized Judge S. H. Fairall to get out a collection of laws entitled *Township Laws of Iowa,* which contained, in addition to the laws relating to townships, various annotations and blank forms. This little volume contains 214 pages and was printed at Davenport by Egbert, Fidlar & Chambers.

[264] A biography of Mr. W. K. Barker may be found in the *Annals of Iowa,* 3rd Series, Vol. V, p. 640.

chased the annotations from Mr. Emlin McClain for the sum of $1800. They also contracted with Bernard Murphy, State Printer, for the printing, and with Howard Tedford, the State Binder, for the binding. This latter item amounted to the sum of $11,176.50 for 14,902 volumes.[265] The Supplement contains 874 pages.

The entire work was copyrighted by the editor, John R. Carter, and the copyright assigned to the State as provided by law.[266] The electrotyping was done by the Star Engraving Company.

There are numerous tables, prepared by Mr. Carter, to be found in the first part of the book. The first table shows where the various acts of the Twenty-seventh, Twenty-eighth, and Twenty-ninth General Assemblies are to be found in the Supplement. Another table shows all the sections or parts of the *Code of 1897* that have been amended or repealed. This is followed by the provisions relating to the Code Supplement and to the Code. The rules of the Supreme Court adopted at the May term, 1901, are also included in this Supplement.[267]

The index to the Supplement is very extensive and is an improvement over the index to the Code itself. It covers two hundred and ninety-three pages, citing both the Code and Code Supplement sections, the latter being denoted by the mark "s" before the section number.

It would be a useless task to call attention to any considerable number of the laws contained in the Supplement. No new law is to be found in the work, all the sections having been passed at the three previous sessions of the legislature. Some of these laws, however, were of very

265 *House Journal,* 1904, pp. 680, 681.

266 *Laws of Iowa,* 1902, Ch. 194, Sec. 3, p. 147.

267 *Code Supplement of 1902,* pp. 578, 579.

great importance. The legislation in reference to municipalities has already been noted.[268] The sections relating to taxation and the assessment of taxes are deserving of attention, especially those relating to the collateral inheritance tax which contain the rules laid down by the district judges for the assessment and collection of the same.[269] Actuary tables are printed in connection with the sections just mentioned. One entire new chapter appears, being Chapter 9-A, of Title V, and consisting of the act concerning the "improvement of the channels of meandered streams within the corporate limits of certain cities." This act was passed by the Twenty-ninth General Assembly.[270]

Perhaps the most important of the new legislation is the uniform negotiable instruments act which is to be found in Sections 3060-a1 to 3060-a198. This act, which is in force in nearly all of the leading commercial States, was adopted by the Twenty-ninth General Assembly.[271] Mr. Carter, the editor, annotated this law so far as the Iowa decisions are concerned and introduced a new feature into the Supplement by citing annotations of the decisions of courts of other States.[272] The latter were taken from the second edition of John J. Crawford's *Annotated Negotiable Instruments Law.* In commenting on this feature of the Supplement Mr. Justice Deemer remarks: "This last feature is an invaluable aid to uniformity in construction, which is quite as important as similarity in language. The committee is

[268] See notes 261 and 262 above.

[269] *Code Supplement of 1902,* pp. 145–158. The rules mentioned were drawn up by Chief Justice H. E. Deemer and District Judges S. M. Weaver, L. E. Fellows, H. M. Towner, Z. A. Church, and M. J. Wade, pursuant to Sec. 6, Ch. 37, *Laws of Iowa,* 1898, p. 28.

[270] *Code Supplement of 1902,* pp. 88–91.

[271] *Code Supplement of 1902,* pp. 352–395. Considerable information concerning the Uniform Negotiable Instruments Law may be found in Huffcut's *The Law of Negotiable Instruments* (First Edition), 1898.

[272] *Code Supplement of 1902,* Editorial Note, p. iv.

entitled to great credit for introducing this apparent innovation.''[273]

Various editorial notes appear throughout the work, some of which refer to the Code for earlier annotations, and are consequently needless. Typographical errors are to be found, but this could hardly be otherwise in a work of this size.

There appears to have been little subsequent legislation concerning the *Code Supplement of 1902.* In 1904 a bill was passed authorizing the Secretary of State to exchange the Code and Supplement with foreign countries, and to furnish copies thereof to the colleges of the State.[274] The Code Supplement Supervising Committee also made its final report at this session of the legislature.[275]

In 1906 several acts were passed relating to the documents of the State, apparently the only one relating directly to the Code being one concerning the report of the county auditors on the sales of codes and session laws.[276] In the House a resolution was adopted requiring the Speaker to appoint a committee of five to report upon necessary amendments to the Code and Supplement, and to the laws of the Thirtieth General Assembly, in order to make them conform to the constitutional amendments just previously adopted.[277] The committee appointed consisted of M. L. Temple of Osceola, Robert M. Wright of Fort Dodge, H. L. Spaulding of Elma, C. N. Jepson of Sioux City, and R. C. Langan of Clinton.[278]

273 Book review, by Justice H. E. Deemer in THE IOWA JOURNAL OF HISTORY AND POLITICS, Vol. I, p. 120. The review is of the *Supplement to the Code of Iowa* and is to be found on pp. 118–121.

274 *Laws of Iowa,* 1904, p. 128.

275 *House Journal,* 1904, p. 680. Also *Senate Journal,* 1904, p. 633.

276 *Laws of Iowa,* 1906, p. 1. See also pp. 2–4.

277 The amendment referred to is Sec. 16, Art. XII, relating to Biennial Elections.— See *Iowa Official Register,* 1911–1912, p. 59.

278 *House Journal,* 1906, p. 57.

The *Supplement of 1902* remained in active use only five years, being replaced in 1907 by the Supplement of that year.

It has been described as being a well executed piece of work. It contained a new idea in the citations under the uniform negotiable instruments act and as Mr. Justice Deemer declared, "this Supplement is not only invaluable to the lawyer, but to every layman who has occasion to know the law as well."[279] The later Supplement, however, containing as it did all legislation subsequent to 1897, completely replaced the *Supplement of 1902.*

THE CODE SUPPLEMENT OF 1907

The history of the *Code Supplement of 1907* is very similar to that of the *Supplement of 1902.* The law provided that every third General Assembly after the Twenty-ninth should provide for the publication in a supplement of all the laws passed subsequent to the Code.[280] This duty was thus imposed on the Thirty-second General Assembly which convened on January 14, 1907.[281]

On January 28th Senator George W. Dunham of Manchester introduced a bill providing for the appointment of a Code Supplement Supervising Committee and authorizing the publishing of a supplement. After some amendments relative to the salary of the editor, the bill was unanimously passed by both houses.[282]

The act as passed is almost identical with the act providing for the *Supplement of 1902.* It calls for a joint committee of three from each house, and an editor at a salary of $1500, who shall compile all the laws passed subsequent

279 Book review by Justice H. E. Deemer in THE IOWA JOURNAL OF HISTORY AND POLITICS, Vol. I, p. 120.

280 *Code of 1897,* Sec. 24, p. 5.

281 *Iowa Official Register,* 1911–1912, p. 125.

282 *Senate Journal,* 1907, p. 144.

to the Code, and secure annotations down to and including the May term, 1907. The act further provided that 12,000 copies should be prepared, uniform in printing, size, and binding with the Code, that it should be sold at $3.00 per volume, and be ready for distribution by the first of October, 1907.[283]

At this same session a law was also passed appointing a commission of three members with power to "rearrange, revise and codify the existing laws relating to the public schools, and recommend additional needed legislation."[284] This committee made an extended report nearly two years later, in the form of a proposed bill.[285]

On the 23rd of January, the editor of the Supplement had been elected by the two houses in joint session.[286] This was five days previous to the introduction by Senator Dunham of the bill authorizing the Supplement. On February 25, 1907, the President of the Senate appointed Senators George W. Dunham of Manchester, J. L. Warren of Pella, and Sherman W. DeWolf of Reinbeck as members of the Code Supplement Supervising Committee.[287] On the following day the Speaker of the House of Representatives appointed E. W. Weeks of Guthrie Center, C. W. Hackler of Fort Dodge, and C. G. Sparks of Eldon to serve on the Committee.[288]

The *Supplement of 1907* is almost twice as large as the *Supplement of 1902,* containing 1552 pages. The annotations in the *Supplement of 1907* were furnished by Mr.

283 *Laws of Iowa,* 1907, Ch. 221, pp. 223, 224.

284 *Laws of Iowa,* 1907, Ch. 222, p. 225.

285 The committee consisted of Frederick E. Bolton of Iowa City, William H. Baily of Des Moines, and Arthur Springer of Wapello. Their report was very elaborate but failed of passage.— See *Report of the Educational Commission,* 1908.

286 *Senate Journal,* 1907, pp. 137, 138.

287 *Senate Journal,* 1907, p. 478.

288 *House Journal,* 1907, p. 549.

Justice McClain,[289] while Mr. James H. Trewin and Mr. J. R. Carter gave assistance in various ways to the Code Supplement Supervising Committee and editor. The editorial note was dated in October, 1907. In fact, the task imposed by the legislature was so great that the book could not be completed on time. The plan of the later supplement follows closely the plan of the earlier work. This was done as the editor explains because the general plan of the 1902 work met with general approval, the bar was accustomed to it, and legislation had been enacted with reference thereto.[290]

The tables in the Supplement are very extensive and cover 219 pages, perhaps the most important being the "Table of Corresponding Sections", showing where each section in the Code and in the *Supplement of 1907* may be found in former codes and in the session laws since 1860. As in the case of the *Supplement of 1902,* various editorial notes are also to be found scattered throughout the book. The revised rules of the Supreme Court and the rules of the Board of Law Examiners are also to be found in this collection of statute laws.[291] The index fills three hundred and fifty-seven pages.

A considerable number of important new laws appear in the *Supplement of 1907,* those being considered new which were passed at the three previous sessions of the legislature. Among these may be noted the Primary Election Law, passed by the Thirty-second General Assembly,[292] the law regulating fire insurance policies,[293] and the sections relating to fraternal beneficiary societies.[294] The new legis-

289 *Code Supplement of 1907,* Preface.

290 *Code Supplement of 1907,* p. v.

291 *Code Supplement of 1907,* pp. 1173–1193.

292 *Code Supplement of 1907,* pp. 224–238.

293 *Code Supplement of 1907,* pp. 364, 365.

294 *Code Supplement of 1907,* pp. 388–393.

lation concerning internal improvements is also very extensive.[295] The chapter on the militia is largely the work of the Thirtieth and Thirty-first General Assemblies,[296] and the Governor is authorized to organize, when he deems necessary, a naval force which shall be known as the "naval militia."[297] The sections relating to dipsomaniacs and inebriates are also more numerous than in the *Supplement of 1902,* providing more fully for the care of this unfortunate class.[298] Chapter 10-A of Title XV, relating to warehousemen and warehouse receipts, is new also, having been passed by the Thirty-second General Assembly.[299] Another of the more important new laws is the pure food law, which is found in part four.[300] The annotations are very numerous in the procedural sections of the Code, especially in part three, which is the Code of Civil Practice.

The Code Supplement Supervising Committee made its report to the Thirty-third General Assembly. In this report it is shown that the total cost of the 1907 work amounted to $33,466.96.[301]

Various attempts have been made at two of the last sessions of the legislature (the Thirty-third and Thirty-fourth) to codify and revise certain phases of the law.[302] Governors Garst and Carroll have both urged revision of the school laws, and several bills have been introduced looking toward the rewriting of the laws on roads, taxation, and health. The law relative to the sale of the Code and session laws

295 *Code Supplement of 1907,* pp. 424–443.

296 *Code Supplement of 1907,* pp. 487–495.

297 *Code Supplement of 1907,* pp. 495, 496.

298 *Code Supplement of 1907,* pp. 502–509.

299 *Code Supplement of 1907,* pp. 786–796.

300 *Code Supplement of 1907,* pp. 1086–1092.

301 *House Journal,* 1909, pp. 1307–1309.

302 See *House Journal,* 1909, pp. 125, 188, 238. *Senate Journal,* 1909, pp. 164, 426.

was considerably amended by the Thirty-third General Assembly.[303]

In December, 1910, at the Good Roads Convention held in Des Moines resolutions were adopted asking a revision of the road laws.[304] In 1911 the legislature passed various laws which were of importance to the student of Iowa jurisprudence. Two commissions were appointed to report to the Thirty-fifth General Assembly, on topics of special interest.[305] Other important and interesting measures were proposed but failed of passage. One of these was a bill providing for the appointment of a committee to draft bills for the legislature[306] and another was a concurrent resolution calling for the reprinting of the early Iowa codes and session laws.[307] One of the most important laws of the Thirty-fourth General Assembly was the Uniform Bills of Lading Act.[308]

During the year 1912 suggestions of importance were made concerning changes and revisions in legislation. The Republican Party in its State platform declared for revision along certain lines,[309] while the newspapers have strongly urged the adoption of new road and tax laws.[310]

303 *House Journal,* 1909, pp. 26, 109.

304 Brindley's *History of Road Legislation in Iowa,* p. 245.

305 *Laws of Iowa,* 1911, Chs. 204 and 205, pp. 229–231. These were the Tax Commission and the Employer's Liability Commission.

306 *House Journal,* 1911, p. 1058.

307 *House Journal,* 1911, p. 1507.

308 *Laws of Iowa,* 1911, pp. 169–178.

The *Supplement of 1913* is in preparation at the time of the writing of this article. Governor Carroll, in his final message to the legislature declared for a revision of the tax and road laws (*Senate Journal,* 1913, pp. 39, 40, 47); and Governor Clarke made a strong plea for a reform in court procedure in his inaugural address (*Senate Journal,* 1913, pp. 90, 91).

On January 22, 1913, Senator Sullivan introduced a bill providing for the *Supplement of 1913* which was referred to the Committee on Printing. This bill, Senate File No. 38, was very similar to the bills providing for the two earlier supplements.— *Senate Journal,* 1913, p. 168.

309 *The Register and Leader* (Des Moines), Thursday, July 11, 1912.

310 See *Applied History,* Vol. I, published in 1912 by The State Historical Society of Iowa.

Much important legislation was enacted by the Thirty-fifth General Assembly along various lines.

CONCLUSION

The *Code of 1897* is the last official code of the State of Iowa, and no private codes have been printed since it appeared. It has been kept up-to-date, both in the annotations and in the laws, by the publication of supplements.

Justice Horace E. Deemer admirably reviews the *Code of 1897* in the following paragraph:

> The Code of 1897 is the first ambitious attempt made by the State at publication of a complete annotated code. That attempt has been remarkably successful, and in spite of the short time given for its publication it is singularly free from error or mistake. It has not been a profitable investment from a financial standpoint — the State not having recouped the expense of publication — but it has everywhere been regarded as nearly a perfect annotated code as it is possible to make.[311]

Very little remains to be said relative to the codes of Iowa law. From the *Old Blue Book* to the *Supplement of 1907* they have been of a very high order, with possibly one exception. Starting with the remarkable *Code of 1851* they have followed the logical arrangement found therein. The addition of annotations makes them doubly valuable as it gives to the reader the judicial interpretation placed on the acts of the legislature. The codes of Iowa will, in short, compare favorably with the codes of any of the leading Commonwealths of the United States.

CLIFFORD POWELL

THE STATE HISTORICAL SOCIETY OF IOWA
IOWA CITY IOWA

311 THE IOWA JOURNAL OF HISTORY AND POLITICS, Vol. I, p. 119.

SOME PUBLICATIONS

Missionary Explorers Among the American Indians. Edited by MARY GAY HUMPHREYS. New York: Charles Scribner's Sons. 1913. Pp. xii, 306. Portraits, plates. Six essays or biographies make up this volume. First, as might be expected, comes a brief account of the life and missionary activities of John Eliot, the great "Apostle to the Indians" during colonial days. Over sixty pages are devoted to Samson Occum, the Mohegan preacher, after which there follows a short sketch of the experiences of David Brainerd, the so-called "Missionary to the Forests", whose chief work was among the Susquehanna Indians. Then comes the story of ill-fated Marcus Whitman of Oregon, in which the writer apparently accepts all that Whitman's friends have claimed for him. The two remaining chapters deal with the life of Stephen Riggs for forty years among the Sioux Indians and the adventures of the itinerant John Lewis Dyer in the Mississippi Valley and in Colorado.

The book makes no claim to containing authoritative or exhaustive studies in any case. Evidently the purpose has been to present in vivid, narrative style, the careers of the six men with the view to appealing to a large circle of readers, old and young. From this standpoint the book is commendable, for the popularizing of history is a worthy aim. At the same time, since a great deal of material is quoted from diaries, letters, and personal reminiscences, it would seem that some citations to sources might well have been given without in the least detracting from the readability of the volume.

History of Fort Dodge and Webster County, Iowa. By H. M. PRATT. Chicago: The Pioneer Publishing Co. 1913. Vol. I, pp. 298; Vol. II, pp. 314. Portraits, plates, maps. Mr. Pratt has made a worthy addition to the list of histories of Iowa counties. The

twenty-six chapters in the first volume deal with such subjects as the geology and topography of Webster County, the early explorations of the Mississippi Valley, the mound builders and the Indians, the Louisiana Purchase and Territorial Iowa, Webster County politics, government, and military history, trade and commerce, schools, churches, women's clubs, the Spirit Lake Massacre, railroads, the river-land grant, the cardiff giant, townships, and towns. The arrangement is good and in point of content and style the book offers the reader a clear and comprehensive view of the main events in the history of Webster County. The absence of an index is, of course, to be deplored. Volume two, following the usual custom, is purely biographical, Mr. Pratt having had nothing to do with its preparation.

The Life of Thaddeus Stevens. By JAMES ALBERT WOODBURN. Indianapolis: The Bobbs-Merrill Co. 1913. Pp. 620. Portraits. This voluminous biography, as is stated on the title page, is "a study in American political history, especially in the period of Civil War and Reconstruction". Few writers are so well fitted to make such a study as Professor Woodburn, and it is doubtful whether the life of any other statesman of the period would offer such a comprehensive view of the political history of the years covered.

The book contains twenty-three chapters, beginning with a brief outline of the early life of Stevens. Then follow chapters on his early participation in politics as an Anti-Mason, the Buckshot War, his defence of free schools, his affiliation with the Free Soilers and the anti-slavery movement, his attitude and activities during the war and reconstruction, the impeachment of Johnson, the Greenback movement, and closing days and characteristics. The work is readable in style and gives evidence of careful research. The citations to sources, while perhaps not as numerous as some students might desire, are nevertheless sufficiently adequate to verify and amplify all important points. It is greatly to be regretted that the index, covering only eight short pages in single column, is so unsatisfactory when the book is intended to be used for reference work.

AMERICANA

GENERAL AND MISCELLANEOUS

Pierrepont Genealogies from Norman Times to 1913, by R. Burnham Moffat, is a recent addition to the list of American genealogical works.

A *List of References to Publications Pertaining to the Government Ownership of Railways* has been issued by the Bureau of Railway Economics at Washington, D. C.

A poetical interpretation of Abraham Lincoln, by George William Bell, has been issued by the Arthur H. Clark Company in an attractive, numbered edition.

Legal Problems Capable of Settlement by Arbitration, by Charles Cheney Hyde, is a pamphlet published in February by the American Society for Judicial Settlement of International Disputes.

Religious Education in the New World-View is the subject of an article by Edwin D. Starbuck which is published in pamphlet form by the Department of Religious Education of the American Unitarian Association.

Among the papers in the January-April number of the *Proceedings of the American Philosophical Society* there is a brief article on *Place and Personal Names of the Gosiute Indians of Utah,* by Ralph V. Chamberlin.

The Cavalry at the Siege of Harper's Ferry in 1862, by George B. Davis; and *The Operations of the Balkan Armies,* by R. A. Brown, are two articles which appear in the May number of the *Journal of the United States Cavalry Association.*

Pamphlets published during the past three months by the American Association for International Conciliation are: *The Interparliamentary Union,* by Christian L. Lange; *The Opportunity and Duty of the Press in Relation to World Peace,* by William C. Deming; and *Music as an International Language,* by Daniel Gregory Mason.

The Land System in Maryland, 1720–1765, is the subject of a monograph by Clarence P. Gould which appears as a recent number of the *Johns Hopkins University Studies in Historical and Political Science.* The four chapters are devoted respectively to the granting of land, the charges on land, the management of land, and manors.

Samuel Gompers is the writer of an article on *Organized Labor's Representative Character, Including the Penalties of Industrial Ills,* which occupies the opening pages of the *American Federationist* for May. In the July number Ethelbert Stewart presents an outline of *Two Forgotten Decades in the History of Labor Organizations, 1820 to 1840.*

Continuations of the *List of City Charters, Ordinances, and Collected Documents* appear in the March and April numbers of the *Bulletin of the New York Public Library.* In the May number there is a *Selected List of References Bearing on the City Plan of New York;* while in the June number there are published some *Papers Relating to Samuel Cornell, North Carolina Loyalist.*

A study of *The Government of American Trade Unions,* by Theodore W. Glocker, constitutes a recent number of the *Johns Hopkins University Studies in Historical and Political Science.* The monograph, which covers nearly two hundred and forty pages, is divided into three parts dealing respectively with the unit of government, the centralization of control, and the machinery of government.

The Plan for a Compensated Dollar, by F. W. Taussig; *The Tabular Standard in Massachusetts History,* by Willard C. Fisher; *The Dominance of the National Union in American Labor Organization,* by George E. Barnett; *Tenancy in the Southern States,* by Benjamin H. Hibbard; and *The Economic Possibilities of Conservation,* by L. C. Gray, are articles in the May number of *The Quarterly Journal of Economics.*

The Royal Scottish Academy, by John Stirling Maxwell; *The Influence of the Convention of the Royal Burghs of Scotland on the Economic Development of Scotland Before 1707,* by Theodora

Keith; *Original Charters of the Abbey of Cupar, 1219–1448,* by James Wilson; and *The Castle Campbell Inventory,* by Niall D. Campbell, are contributions in the April number of *The Scottish Historical Review.*

The following pamphlets have been published by the World Peace Foundation since March: *Panama Canal Tolls: The Obligations of the United States,* by Elihu Root; *Instructions to the American Delegates to the Hague Conferences 1899 to 1907,* by John Hay and Elihu Root while Secretary of State; *Washington, Jefferson and Franklin on War,* by Edwin D. Mead; and *The Drain of Armaments,* by Arthur W. Allen.

In the April number of the *National Municipal Review* Charles F. Taylor writes on *The March of Democracy in Municipalities;* W. M. Prendergast tells about the *New York City Finances;* W. A. Somers discusses *The Valuation of Real Estate for Taxation;* Alice S. Tyler presents the status of *The Public Library in Commission Governed Cities;* and there are a number of other pertinent articles on municipal topics.

No Immunity for Law Breakers, by James A. Emery; and *The Income Tax: Its Origin and Application,* by Ludwig Nissen, are two articles in the May number of *American Industries.* Among the papers in the June number are: *The Political Factor in the Industrial Unrest,* by John Kirby, Jr.; *Shall the Decalogue be Repealed?,* by James A. Emery; *The Open Shop,* by Joseph W. Bryce; and *A Change in Our Monetary System,* by Emory W. Clark.

Under the heading of *A Patriot's View of the Political Situation Immediately Following the Civil War* Duane Mowry contributes a letter from the Doolittle correspondence to the March number of *Americana.* Two articles in the April number are: *The Cavalier in America,* by Lyon Gardiner Tyler; and *Arbor Day and Its Founder,* by John Howard Brown. In the May number, among other articles, there is a discussion of *Religious Controversy as Effecting the American Revolution of 1776,* by Samuel M. Levin.

Among the articles in the April number of the *Yale Review* may be mentioned the following: *In the Defenses of Washington,* by Thomas R. Lounsbury; *The Woman of Tomorrow,* by Gertrude Atherton; *Shakespeare as an Economist,* by Henry W. Farnam; *The College and the Intellectual Life,* by E. P. Morris; *Dante as the Inspirer of Italian Patriotism,* by William Roscoe Thayer; *The Siege of Scutari,* by Charles Arthur Moore, Jr.; *The Election and Term of the President,* by Max Farrand; and *A Speculation as to Disarmament,* by Theodore S. Woolsey.

Blaine Free Moore is the author of a monograph on *The Supreme Court and Unconstitutional Legislation* which has been published by Columbia University in its series of *Studies in History, Economics, and Public Law.* The three chapters deal respectively with the early attitude of the State courts towards declaring legislation unconstitutional, the attitude of the Supreme Court of the United States toward holding statutes unconstitutional, and an analysis of federal statutes held void by the Supreme Court of the United States. There are also a number of valuable appendices.

President Wilson's Cabinet, by Albert Shaw; *The New Spirit in Southern Farming,* by E. E. Miller; *Consumers' Coöperation — The New Mass Movement,* by Albert Sonnichsen; and *Coöperation in Wisconsin,* by Robert A. Campbell, are articles in the April number of *The American Review of Reviews.* In the May number, among other things, there is a biographical sketch of *John Pierpont Morgan,* by Sereno S. Pratt; and an article on *Economic Reconstruction in the Balkan States,* by Benjamin C. Marsh. In the June number Jesse Macy writes on *The Swiss as Teachers of Democracy;* Grant Hervey describes *The "Young Australia" Movement;* and Herman Rosenthal discusses *America and the Chinese Loan.*

The Need of Social Statistics as an Aid to the Courts, by Walter F. Willcox; *Some Aspects of the Influence of Social Problems and Ideas Upon the Study and Writing of History,* by Carl Becker; *Outlook for Social Politics in the United States,* by Charles E. Merriam; and *The Background of Economic Theories,* by Simon N. Patten, are articles in the March number of *The American Journal of Sociology.*

In the May number Roscoe Pound discusses *Legislation as a Social Function;* Eldon R. James points out *Some Implications of Remedial and Preventive Legislation in the United States;* and Edward T. Devine writes on *Social Ideals Implied in Present American Programs of Voluntary Philanthropy.*

Providence Before 1850, by Stephen Farnum Peckham; *Patrick Henry's Mother,* by Jean Cabell O'Neill; *The Controversy Over the Northwest Territory,* by George Cowles Lay; and *The Mecklenburg Declaration of Independence,* by Archibald Henderson, are articles in *The Journal of American History* for the last quarter of 1912. In the first number of volume seven Francis Kieron writes on *The Battle of Guilford Court House.* Arndt M. Stickles discusses *The Danish West Indies and American Ownership.* Other articles are: *The Citizen King in Kentucky,* by Caroline W. Berry; *The Famous Boundary Dispute Between Rhode Island and Massachusetts,* by George Cowles Lay; and *Liquor Legislation in Connecticut Colony,* by Joel N. Eno.

The March number of the Journal of the American Institute of Criminal Law and Criminology contains, among other things, a continuation of Edwin R. Keedy's study of *Criminal Procedure in Scotland;* an article on *The Scientific Police,* by Salvatore Ottolenghi; and a report on *Insanity and Criminal Responsibility,* by Edwin R. Keedy. Among the articles in the May number are: *Scandalum Magnatum in Upper Canada,* by William Renwick Riddell; an article dealing with extradition in Pennsylvania, by William H. Baldwin; *The Bases of Divorce,* by John Lisle; *The Association Method in Criminal Procedure,* by Paul Menzerath; and *Mental Types of Juvenile Delinquents, Considered in Relation to Treatment,* by Clara Harrison Towne.

Democracy and Literature is the topic discussed in an interesting manner by Archibald Henderson in the opening pages of *The South Atlantic Quarterly* for April. In an address on *History and Patriotism* William E. Dodd calls attention to the disregard for truth which has characterized much of the historical literature of the past, and points out the fact that true patriotism demands that

in the future the real facts of history shall be presented, with no attempt to support theories or prejudices. Paul Emerson Titsworth is the writer of a biographical sketch of *Marie von Ebner Eschenbach.* Other articles are: *General Lee in Grant's Petersburg Progress,* by Nellie P. Dunn; *Recent Interpretations of American Life,* by Edwin Mims; and *Military Criticism by General William R. Boggs,* by William K. Boyd.

Objections to a Monetary Standard Based on Index Numbers, by David Kinley; *The Commerce Court Question,* by Samuel O. Dunn; *Methods of Business Forecasting Based on Fundamental Statistics,* by James H. Brookmire; and *The Tariff Board and Wool Legislation,* by William S. Culbertson, are articles in *The American Economic Review* for March. The supplement to this number contains the *Papers and Proceedings* of the twenty-fifth annual meeting of the American Economic Association held at Boston in December, 1912. Among the papers are: *Population or Prosperity,* the presidential address by Frank A. Fetter; *A Remedy for the Rising Cost of Living — Standardizing the Dollar,* by Irving Fisher; *Banking Reform in the United States,* by E. W. Kemmerer; a round table discussion of *Farm Management,* led by H. C. Taylor; *Frontiers of Regulation and What Lies Beyond,* by J. M. Clark; and *The Economics of Governmental Price Regulation,* by Chester W. Wright.

Among the articles in *The Survey* during the past quarter are: *Industrial Education and Democracy,* by John Dewey; and *Labor Conditions and Interstate Commerce,* by Adelbert Moot (March 22); *Why is the Pauper,* by George Thomas Palmer; *Compensation for Occupational Diseases,* by John B. Andrews; *The Social Aim in Government,* by Samuel McCune Lindsay; *A Judge Lindsey in the "Idle Forties",* by Laura B. Everett; and *Civil War in the West Virginia Coal Mines,* by Harold E. West (April 5); *Nation Wide Movement for Industrial Safety,* by Ferdinand C. Schwedtman (April 19); *The Washington Workmen's Compensation Act and its Critics,* by Hamilton Higday; *New York's New Labor Legislation,* by Abram I. Elkins, and *Work and Citizenship in Wisconsin,* by

H. E. Miles (June 21); *Pensions for Mothers,* by Edward T. Devine; *The Reorganization of Social Work,* by Simon N. Patten; and *Social Justice,* by Frank Tucker (July 5).

Prison Labor is the topic discussed in the March number of *The Annals of the American Academy of Political and Social Science.* Among the many articles on various phases of the subject are: *The New Penology,* by Theodore Roosevelt; the *Wage-Earner and the Prison Worker,* by John Mitchell; *Women and Prison Labor,* by Helen Varick Boswell; *The Problem of Prison Labor,* by Oswald West; *Convict Labor in Highway Construction,* by Joseph Hyde Pratt; and *The Courts and Prison Labor,* by George Cosson. *County Government* is the subject discussed in the May number of the *Annals.* Part one has to do with types of county government such as are to be found in New England, Illinois, Missouri, and in the parishes of Louisiana. In part two there may be found articles on such problems in county government as politics, the civil service, the duties of various county officers, school affairs, charity, local taxation, and budgets. Part three deals with the plans of various States for the reorganization of county government.

WESTERN

In the number of *The University of Colorado Studies* issued in February there is an article on *The Early Days of the University of Colorado,* by James F. Willard.

A study of *Women in Trade Unions in San Francisco,* by Lillian Ruth Matthews, was published in June in the *University of California Publications in Economics.*

The Modernity of Tolstoy's Religion is the subject discussed by Abram Lipsky in an article in the April number of *The Quarterly Journal of the University of North Dakota.*

A study of the *Taxation of Corporations in Illinois Other Than Railroads, Since 1872,* by Joel Roscoe Moore, occupies volume two, number one of the *University of Illinois Studies in the Social Sciences.*

Volume one, number four of the *University of Illinois Studies in the Social Sciences* consists of a monograph on *Friedrich Gentz an Opponent of the French Revolution and Napoleon,* by Paul F. Reiff.

Robert H. Lowie is the writer of a monograph on the *Dance Associations of the Eastern Dakota* which is published as volume eleven, part two of the *Anthropological Papers of the American Museum of Natural History.*

Comparative Legislation Bulletin number twenty-five, issued by the Legislative Reference Department of the Wisconsin Library Commission contains a discussion of *The Initiative and Referendum: State Legislation,* by Charles Homer Talbot.

The January-March number of *The American Antiquarian and Oriental Journal* opens with a continuation of *A Study of Physiognomy,* by Robert Bennett Bean. Other articles are: *Skull of the Stone Age,* by W. Fenwick; *Archaeological Work in Canada,* by Harlan I. Smith; and *Wooden Monuments of the Northwest Coast Indians,* by Felix J. Koch.

Quarter of a Million Larger, by Clara Bosworth Castle; and *A History of Universities,* by J. McKeen Catell, are articles in *The Graduate Magazine of the University of Kansas* for March. In the April number M. W. Sterling discusses *Early K. U. Finances;* while G. O. Virtue presents an estimate of *The "Merit" of a Teacher or a University* in the May number.

Some Developments of the American Stage During the Last Fifty Years, by William H. Crane; *Two Ideals of Government in American History,* by E. I. McCormac; *The Genesis of a Law School,* by William Carey Jones; and *A Plea for the Larger Spirit of Coöperation in California,* by Samuel B. Christy, are articles in *The University of California Chronicle* for April.

The Development of Sentiment on Negro Suffrage to 1860 is the subject of a master's thesis by Emil Olbrich which is published as a number of the *Bulletin of the University of Wisconsin.* The writer, in the various chapters, deals with colonial practice and revolutionary principles, the period of reaction from 1790 to 1838, suf-

frage and anti-slavery from 1838 to 1846, the struggle in the Northwest from 1844 to 1857; and the Republican party and negro suffrage from 1857 to 1860.

The Bureau of Research in Agricultural Economics at the University of Minnesota has published a *Social and Economic Survey of a Rural Township in Southern Minnesota,* prepared by Carl W. Thompson and G. P. Warber. Work on the farm, business relations, farmers' organizations, civic relations, roads, education, and religious and social activities are the topics covered.

A book which is of Iowa interest is one which bears the title *In Keokuk's Time on the Kansas Reservation.* The book is one of a series known as *Green's Historical Series,* compiled and published by Charles R. Green of Olathe, Kansas. Another book in the same series contains sketches of *Early Days in Kansas.* While funds have not been at the disposal of the publisher to put out this series in either attractive or permanent form he nevertheless deserves much credit for his work in recording the reminiscences of pioneers.

A new western historical periodical, called *Old Santa Fe: A Magazine of History, Archaeology, Genealogy and Biography,* made its initial appearance in July. The magazine, which is edited by Ralph Emerson Twitchell, is published quarterly by the Old Santa Fe Press at Santa Fe, New Mexico, although the printing is done by the Torch Press at Cedar Rapids, Iowa. According to an editorial statement the magazine aims to be "a repository for the publication of documents, contributions, illustrative matter, antiquities, and papers devoted to archaeological research, dealing with the history and archaeology of the Southwest". It has been adopted as the official bulletin of the New Mexico Museum, the School of American Archaeology at Santa Fe, and the Historical Society of New Mexico. Two contributions take up the greater part of the first number, namely a monograph on *New Mexico Under Mexican Administration 1821–1846,* by Lansing Bartlett Bloom; and a biography of *Chief Justice Kirby Benedict,* by Ralph Emerson Twitchell. The format of the new magazine is attractive. It covers a fascinating field and deserves hearty encouragement and support.

IOWANA

James Lawrey describes *Spelling Fifty Years Ago* in the April number of *Midland Schools.*

A Pioneer Ferryman, by Edgar White, is an article which appears in the June number of *The Road-Maker.*

A biographical sketch of *Carl Wilhelm Von Coelln* is to be found in the May number of *The Grinnell Review.*

Godfrey Durst relates *The Story of Iowa's Early Flour Mills* in the May number of *Iowa Factories.* In the June issue G. Walter Barr sets forth some *Interesting Details About the Keokuk Dam.*

The memorial address on *William Larrabee,* delivered by William S. Kenyon on March 20, 1913, before a joint session of the General Assembly of Iowa, has been privately printed in a neat pamphlet.

Intensive Farming Reduces the Cost of Living, by George Woodruff, is an article in the April number of *The Northwestern Banker.* In the May number Tacitus Hussey presents an outline of *The Banking History of Des Moines.*

In a *Bulletin from the Laboratories of Natural History* of the State University of Iowa published in April there is an article on *An Artificial Prairie,* by Bohumil Shimek, which is of considerable interest from the standpoint of Iowa history.

Among the addresses and papers which are printed in the *Proceedings of the Fifty-Eighth Annual Session of the Iowa State Teachers' Association* are the following: *The Need for More and Better Facilities for Training Teachers,* by Alice Dilley; and *Factors in the Development of a Greater Iowa,* by Albert M. Deyoe.

Continuations of the article on *Religious Beliefs of the American Indians,* by H. A. Stebbins, appear in the April, May, and June numbers of *Autumn Leaves.* In the April and June issues there are installments of the *Biography of Alexander Hale Smith,* by Inez Smith; while a series of articles on *Government,* by S. A. Burgess, is begun in May and continued in June.

Among the articles which have appeared in *The Iowa Alumnus* during the past quarter are: *Frank B. Tracy,* by Guido H. Stempel (March); *Twenty Years Ago,* by Edwin L. Sabin (April); *Springtime Romances,* by Randall Parrish (May); and *Commencements in the Past,* by Emerson Hough (June).

American Municipalities for April contains among other things, an article on *The Commission Plan of City Government,* by J. W. Mayer; and a discussion of *Public Safety and Commission Government,* by John J. Ryder. In the May number *The Iowa Legislature,* by Frank G. Pierce; *Success of Municipal Ownership,* by L. D. Wright; and the *Report of the Committee on Judicial Opinions,* by James B. Newman, are among the contents.

Ames Representation in the Legislature, by Charles W. Hunt; *Reminiscences of Joseph Meredith,* by W. M. Scott; and *The Literary Societies of the Seventies,* by the same writer, are articles in the May number of *The Alumnus* published at the Iowa State College at Ames. In the June number Elizabeth Maclean presents *Some Glimpses of the Past at Iowa State College,* and there are *Biographical Sketches of the Board of Education.*

The April number of the *Journal of History* published at Lamoni by the Reorganized Church of Jesus Christ of Latter Day Saints opens with a *Biography of William O. Clark,* by Julia R. Short. There are continuations of the *Biography of Joseph F. Burton,* by Emma B. Burton; the *Autobiography of Elder Charles Derry;* and the *Biography of Alexander H. Smith,* by Vida E. Smith. The closing article is one by Heman C. Smith, entitled *The Pathfinder: The Historic Background of Western Civilization.*

An interesting item of Iowana is *The History of the First National Bank in the United States* recently published by Rand McNally & Co. It is probably a fact not generally known that the first bank to open its doors under the provisions of the National Bank Act of 1863 was located at Davenport, Iowa, and began business on June 29th in that year. The book has chapters on early banking under State laws, early banking in Davenport, the National Bank Act, and the history of the First National Bank of

Davenport, as well as biographical sketches of persons who have been connected with the hank during its history. In this list are such well known names as James Grant, Hiram Price, Charles E. Putnam, John F. Dillon, and Albert F. Dawson, the present President of the bank. In appendices may be found lists of officers and directors and statements of financial condition.

SOME RECENT PUBLICATIONS BY IOWA AUTHORS

Alderman, Alva Bruce,
Students' History of the United States. Marion, Iowa: Educator Publishing Co. 1913.

Beard, James Thom.,
Practical Mine Ventilation. New York: Hill Publishing Co. 1913.

Betts, George Herbert,
New Ideals in Rural Schools. Boston: Houghton Mifflin Co. 1913.

Bopp, Clinton Le Roy,
Bopp Automatic Signalling Systems. Hawkeye, Iowa: Published by the Author. 1913.

Gillette, Halbert Powers,
Handbook of Cost Data. Chicago: M. C. Clark Publishing Co. 1913.

King, Irving,
Education for Social Efficiency: A Study in the Social Relations of Education. New York: D. Appleton & Co. 1913.

Koren, John,
Summaries of Laws Relating to the Committment and Cure of the Insane in the United States. New York: National Committee for Mental Hygiene. 1913.

McGee, W J,
Wells and Subsoil Waters. Washington: Government Printing Office. 1913.

MacLean, George Edwin,
Present Standards of Higher Education in the United States. Washington: Government Printing Office. 1913.

Macy, Jesse,

Political Science. Chicago: Chicago Civics Society. 1913.

Meyerholz, Charles H.,

History and Government of Iowa. Boston: Educational Publishing Co. 1912.

Parrish, Randall,

The Air Pilot. Chicago: A. C. McClurg & Co. 1913.

Pratt, H. M.,

History of Fort Dodge and Webster County, Iowa. Chicago: The Pioneer Publishing Co. 1913.

Robbins, Edwin Clyde,

Selected Articles on the Commission Plan of Municipal Government (Enlarged Edition). Minneapolis: H. W. Wilson Co. 1913.

Selected Articles on Reciprocity. Minneapolis: H. W. Wilson Co. 1913.

Simms, P. Marion,

What Must the Church Do To Be Saved? New York and Chicago: Fleming H. Revell Co. 1913.

Trowbridge, Arthur C. (Joint author),

Laboratory Exercises in Structural and Historical Geology. New York: Henry Holt. 1913.

Whitcomb, Seldon L.,

Random Rhymes and the Three Queens. Grinnell, Iowa: The Herald Publishing Co. 1913.

Williams, Edward H.,

The Walled City. New York: Funk & Wagnalls. 1913.

Woodhouse, J. S.,

The Fugitive. Cedar Rapids: The Torch Press. 1913.

SOME RECENT HISTORICAL ITEMS IN IOWA NEWSPAPERS

The Register and Leader

Sketch of Life of C. W. Payne of Henry County, April 6, 1913.

James Shepherd and the First Democratic Paper in Iowa, April 13, 1913.

Groves-Lincoln Monument at Webster City, April 13, 1913.
Fred L. Barnett Collection Given to the State of Iowa, April 13, 1913.
Iowa Women Helped Make Mt. Vernon Preservation Possible, April 27, 1913.
Spirit Lake Woman Who Knew Queen Victoria and Gladstone, May 4, 1913.
A Night on an Iowa Prairie, May 4, 1913.
History of an Interesting and Successful Iowa Circus Family, May 4, 1913.
Sketch of Life of Warren S. Dungan, May 11, 1913.
When Fort Dodge Won the County Seat, May 11, 1913.
General Winslow Coming Back to Iowa, May 11, 1913.
Many Harrison County Men and Women Nationally Eminent, May 18, 1913.
Iowa Woman Related to Colonel Anderson of Fort Sumter, May 18, 1913.
Some Military Roads of Northeastern Iowa, May 18, 1913.
Article on Encampment of G. A. R. at Des Moines, June 1, 1913.
Little Brown Church in the Vale, June 1, 1913.
Iowa Boy's Tale of Civil War Events, by Charles C. Wentzler, June 8, 1913.
Daniel McCarty of Ames, One of the Pioneers of Central Iowa, June 8, 1913.
Daniel Justice, Pioneer, by L. F. Andrews, June 8, 1913.
Some of the Agricultural Machinery of Pioneer Days in Iowa, June 8, 1913.
Louisa County, Iowa, Most Prolific Home of Prehistoric Mounds, June 8, 1913.
Stage Driving in Iowa in Early Days, June 8, 1913.
W. W. Witmer Tells of Lincoln Day on Battlefield of Gettysburg, June 29, 1913.

The Burlington Hawk-Eye

In Old Burlington. (In each Sunday Issue.)
Sketch of Life of Samuel Freeman Miller, April 6, 1913.

When Burlington Suffered Disastrous Storm and Flood, April 13, 1913.

The Local Storm of 1866 Outclassed by That of 1876, April 20, 1913.

The Worst Flood of All in Hawkeye Creek, April 27, 1913.

Remarkable Tales of Shiloh Battlefield, April 27, 1913.

The Truceless War, by W. P. Elliott, April 27, 1913.

The Valley of Floods, by Philip Grant Davidson, May 4, 1913.

A Memento of Lookout Mountain, by W. P. Elliott, May 4, 1913.

Interesting Glimpses of Burlington, by Dan E. Clark, May 18, 1913.

Three Thrilling War Tableaus, by W. P. Elliott, May 18, 1913.

Early Day Steamboat Race on the Des Moines River, June 1, 1913.

A. A. Perkins, Burlington Veteran, June 15, 1913.

Bronze Tablet in Memory of Seven Pioneer Residents of Burlington, June 22, 1913.

HISTORICAL SOCIETIES

PUBLICATIONS

The Boone-Ryan History, by J. D. Ryan, is a booklet issued by the Kentucky State Historical Society.

Johnson Brigham's *Pioneer History of the Territorial and State Library of Iowa* has been reprinted from the *Annals of Iowa.*

Medford's Postmasters, by Irving B. Farnum; and *The River's Death Toll,* by Eliza M. Gill, are two contributions in the April number of *The Medford Historical Register.*

Two articles in the March-April number of *Records of the Past* which deal with American archaeology and history are: *A Wisconsin Collection,* by Charles E. Brown; and *A Cayuga Memorial,* by Grace Ellis Taft.

A supplement to the April number of *The New England Historical and Genealogical Register* contains the proceedings of the New England Historic Genealogical Society at the annual meeting held on February 5, 1913.

The Biennial Report of the State Historical and Natural History Society of Colorado for 1911 and 1912 indicates progress in the work of the Society, including over sixteen hundred accessions to the library and collections.

Spanish Activities on the Lower Trinity River, 1746–1771, is the subject of a forty-page monograph by Herbert E. Bolton which is given first place in the April number of *The Southwestern Historical Quarterly.* Then follows a critical discussion of the *Causes and Origin of the Decree of April 6, 1830,* by Alleine Howren. Finally, there is a short installment of the *Correspondence from the British Archives Concerning Texas, 1837–1846,* edited by Ephraim Douglass Adams.

The Councils of Proprietors of New Jersey, by John R. Stevenson; and some documents relative to *The Separation of New Jersey from New York* are among the contents of the *Proceedings of the New Jersey Historical Society* for January.

A monograph on *Kent County and Kent Island, 1656–1662,* by Bernard C. Steiner, is the opening contribution in the March issue of the *Maryland Historical Magazine.* Then follow continuations of the *Letters of Rev. Jonathan Boucher* and of *Land Notes, 1634–1655.*

The South Carolina Historical and Genealogical Magazine for April is taken up with continuations of the study of *The Baronies of South Carolina,* by Henry A. M. Smith; *The Register of St. Andrew's Parish,* edited by Mabel L. Webber; and the *Order Book of John Faucheraud Grimké.*

Stories of an African Prince, by John A. Lomax; *Bagobo Myths,* by Laura Watson Benedict; *European Folk-Tales Collected Among the Menominee Indians,* by Alanson Skinner; and *European Folk-Tales Among the Penobscot,* by Frank G. Speck, are articles in the January-March number of *The Journal of American Folk-Lore.*

The Year Book of the Pennsylvania Society for 1913 contains, among other things, the following addresses: *The Theory of Constitutional Government in 1787 and at the Present Time,* by George W. Wickersham; *The Constitution of the United States,* by James Bryce; *The States Under the Constitution,* by Job E. Hedges; and *The United States: The People's Charter,* by William B. Borah.

Our Heritage of History and Our Duty as Trustees of the Past, is the subject of an address by Henry Van Dyke which opens the *Journal of the Presbyterian Historical Society* for March. Another contribution is to be found in the *Letters and Reports of the Rev. John Philip Boehm,* translated and edited by William J. Hinke. Two articles in the June number are: *Historical Notes of the Presbyterian Church of Shrewsbury, N. J.,* by R. Taylor; and *The Heidelberg Catechism and Its 350th Anniversary in 1913,* by James I. Good.

The January-April number of the *German American Annals* contains continuations of the biography of *Friedrich Armand Strubberg,* by Preston A. Barba; and of the study of *The German Drama in English on the Philadelphia Stage,* by Charles F. Brede; together with a brief sketch dealing with *German in the Public Schools,* by Marion Dexter Learned.

Four contributions occupy the greater part of the September, 1912, number of *The Quarterly of the Oregon Historical Society,* namely: *The Trail of the Astorians,* by J. Neilson Barry; *Reminiscences of Seventy Years,* by William Barlow; *The Barlow Road,* by Walter Bailey; and *John C. Calhoun as Secretary of War, 1817–1825,* by Frances Packard Young.

The Washington Historical Quarterly for April opens with *A Survey of Alaska, 1743–1799,* by Frank A. Golder. Thomas W. Prosch describes *Washington Territory Fifty Years Ago;* Camilla Thomson Donnell tells of *Early Days at White Salmon and the Dalles;* and Guy Vernon Bennett discusses the *Early Relations of the Sandwich Islands to the Old Oregon Territory.*

Daniel Boone in the Kanawha Valley, by W. S. Laidley; *Kentucky Volunteers in the Texas Revolution,* by James E. Winston; *Siege of Fort Meigs, and "Dudley's Defeat",* by A. C. Quisenberry; and *The First Pioneer Families of Virginia,* by the same author, are contributions in the May number of *The Register of the Kentucky State Historical Society.*

The Colorado River Campaign 1781–1782: Diary of Pedro Fages, edited by Herbert Ingram Priestley, constitutes volume three, number two of the *Publications of the Academy of Pacific Coast History.* The diary, which is printed both in Spanish and in English translation, contains the record of an expedition against the Yuma Indians who had risen against the Spaniards.

Jessie McHarry is the writer of a fifty-page biography of *John Reynolds* which opens the April number of the *Journal of the Illinois State Historical Society.* J. F. Snyder writes on *Fort Kaskaskia;* H. C. Connelly presents some *Recollections of the War*

Between the States; and there is a list of *Soldiers of the American Revolution Who Are Buried in Illinois,* prepared by Mrs. E. S. Walker.

Sundry Landmark Notabilia of our Society, by William J. McCallen; *Life of Conwell of Philadelphia,* by the late Martin I. J. Griffin; *Following the Conquistadores,* by Francis P. Siegfried; and *An Old-Time Matron and Convert from Presbyterianism: Mrs. Rachel (Harvey) Montgomery,* by Thomas Cooke Middleton, are articles in the March number of the *Records of the American Catholic Historical Society.*

Volume three, number one of the *Publications of the Academy of Pacific Coast History,* published in March, is devoted to *The Anza Expedition of 1775–1776: Diary of Pedro Font,* edited by Frederick J. Teggart. The diary, which is both interesting and valuable, is printed in the original Spanish as well as in English translation, and is an important source for the study of the founding of San Francisco.

The *Historical Collections of the Essex Institute* for April contains, among other things, transcripts of the records of *Auction Sales in Salem, of Shipping and Merchandise, During the Revolution;* a number of *Newspaper Items Relating to Essex County;* a continuation of *Salem Town Records;* and another installment of Alfred Poore's account of *A Genealogical-Historical Visitation of Andover, Mass., in the Year 1863.*

The extracts from *The Randolph Manuscript* which appears in *The Virginia Magazine of History and Biography* for April consists of a continuation of the commission and instructions issued to the Earl of Orkney for the government of Virginia. The principal documents printed under the heading of *Virginia in 1667–1676* concern the case of Giles Bland. The *Pension Declaration of Major Thomas Massic* is another contribution.

Among the addresses and papers found in the *Proceedings of the Thirteenth Annual Session of the State Literary and Historical Association of North Carolina* are the following: *The Historical*

Foundations of Democracy in North Carolina, by R. D. W. Connor; *Neglected Phases of North Carolina History,* by W. K. Boyd; *Democracy and Literature,* by Archibald Henderson; *County Records as Sources of Local History,* by Frank Nash and Charles L. Coon; and *Nathaniel Macon,* by Josephus Daniels.

The Annals of Iowa for January opens with an article on *The Stampede from General Weaver in the Republican Convention of 1875,* by James S. Clarkson. *Some Characteristics of Gen. U. S. Grant,* are pointed out by Grenville M. Dodge. About forty pages are occupied by a continuation of Johnson Brigham's *Pioneer History of the Territorial and State Library of Iowa.* Finally, Edward H. Stiles in his series of articles on *Prominent Men of Early Iowa* deals with the lives of Henry O'Connor and David C. Cloud.

A second installment of *The Story of the Civil War in Northeast Missouri,* by Floyd C. Shoemaker, appears in the April number of the *Missouri Historical Review.* John L. Thomas presents a brief sketch of *Old Landmarks of Jefferson County.* An article on *The "Slicker War" and Its Consequences,* by J. W. Vincent, deals with the efforts of Missouri pioneers to drive out desperadoes and outlaws. Some episodes in the career of *General Jo. O. Shelby* are related by S. A. Wright; and there is a sketch of *Early Railroads in Missouri,* by G. C. Broadhead.

The Meeting of the American Historical Association at Boston and Cambridge is described in detail in the opening pages of *The American Historical Review* for April. Then follows Theodore Roosevelt's presidential address on *History as Literature.* The other articles are: *Profitable Fields of Investigation in Medieval History,* by J. W. Thompson; *Columbus a Spaniard and a Jew,* by Henry Vignaud; *Wednesday, August 19, 1812, 6:30 p. m. the Birth of a World Power,* by Charles Francis Adams; and *Profitable Fields of Investigation in American History, 1815–1860,* by William E. Dodd. Under the heading of *Documents* there is a second installment of the *Correspondence of the Russian Ministers in Washington.*

The following historical papers appear in the *Proceedings of the State Historical Society of Wisconsin* at the annual meeting in October, 1912: *Genesis of the Kansas-Nebraska Act,* by Frank Heywood Hodder; *Captain Jonathan Carver: Additional Data,* by John Thomas Lee; *The Capture of Mackinac in 1812,* by Louise Phelps Kellogg; *William Powell's Recollections; Pioneers and Durham Boats on Fox River,* by John Wallace Arndt; *The Supreme Court of Wisconsin Territory,* by Robert George Siebecker; and *House Miscellaneous Papers in the Library of Congress,* by Asa C. Tilton.

Under the heading of *The Ohio Frontier in 1812* there appears in the April number of the *Ohio Archaeological and Historical Quarterly* a diary of the Indian congregation at Goshen on the Muskingum River, for 1812, written by Benjamin Mortimer, an Englishman who several years earlier had joined the Moravians in America. The *Dedication of the Logan Elm* on October 2, 1912, is described in an illustrated article by May Lowe. *Marking the Old "Abolition Holes"* and *Fort Hill Indian Cemetery* are two articles by Felix J. Koch. *The Sandusky Forts,* by Charles A. Hanna; and *The Evolution of the Ohio-Erie Boundary,* by Reginald C. M'Grane, are other contributions.

The January-March number of the *Quarterly Publication of the Historical and Philosophical Society of Ohio* contains a brief but interesting study of the *Relation of Southern Ohio to the South During the Decade Preceding the Civil War,* by David Carl Shilling. The writer deals with the nativity of the pioneers of southern Ohio and the political activities of the souther-born element, the attitude of the people toward the negro, the commercial and religious relations between the region on the north bank of the Ohio River and the region on the south, and the call to arms. A number of maps show the politics of various parts of Ohio during the recade covered.

ACTIVITIES

The Kentucky State Historical Society held its annual meeting at Frankfort on June 7, 1913.

The large and valuable collection of papers of Grenville M. Dodge has been definitely deposited in the Historical Department of Iowa at Des Moines.

The Historical Department of Iowa and the Polk County Pioneers' Club are planning to erect a tablet over the grave of William Alexander Scott, who donated the ground on which the State capitol building is located.

The Illinois State Historical Society held its annual meeting at Springfield on May 15th and 16th. A special feature of the meeting was an address in commemoration of the one-hundredth anniversary of the birth of Stephen A. Douglas.

The Maryland Historical Society held its annual meeting on February 10, 1913. At this time Mr. Mendes Cohen retired from the office of President which he has held for many years and Mr. Edwin Warfield was elected as his successor.

During the two-year period ending November 30, 1912, the North Carolina Historical Commission received many valuable additions to its manuscript collections. Among the prospected publications is a documentary history of the private schools of the State from 1790 to 1840.

At the annual meeting of the Texas State Historical Association held on March 3, 1913, Z. T. Fulmore was elected President; Miss Katie Daffan, Mrs. A. B. Looscan, Beauregard Bryan, and Edward W. Huesinger, Vice Presidents; and Charles W. Ramsdell, Corresponding Secretary and Treasurer.

At the beginning of the present year the membership of the Minnesota Historical Society numbered 422. The number of accessions in the library had reached 108,975, in addition to 9641 bound newspapers. Among the publications in preparation are two volumes dealing with Minnesota geographic names.

The Michigan Historical Commission has taken over the publishing activities of the Michigan Pioneer and Historical Society. The main work of the Society in the future will be the organization of

local historical societies and the stimulation of interest in State and local history by the holding of annual and mid-winter meetings. The thirty-ninth annual meeting was held at Lansing on June 4th and 5th.

The membership of the Essex Institute numbered 587 on April 30, 1913. During the preceding year there were over thirty thousand visitors to the museum, and ten free lectures were given. The accessions to the library during the same year amounted to nearly three thousand volumes and over eight thousand pamphlets.

The annual meeting of the Virginia Historical Society was held on February 15, 1913. The membership of the Society now numbers 768, which is a gain of ten over the number at the previous annual meeting. During the past year 569 books and pamphlets were added to the library. The following officers were chosen for the ensuing year: President, W. Gordon McCabe; Vice Presidents, Archer Anderson, Edward V. Valentine, and Lyon G. Tyler; Corresponding Secretary and Librarian, William G. Stanard; Recording Secretary, David C. Richardson; Treasurer, Robert A. Lancaster, Jr.

The sixth annual meeting of the Mississippi Valley Historical Association was held at Omaha, Nebraska, May 8 to 10, 1913. Joint sessions were held with the Nebraska State Historical Society and the Nebraska History Teachers' Association. Among the papers read of this meeting were: *Economic Factors in the Acquisition of Louisiana,* by Louis Pelzer; *Economic Basis of the Greenback Movement,* by Clyde O. Ruggles; *Asa Whitney: Father of Pacific Railroads,* by Nelson H. Loomis; *At the Meeting of the Trails: the Romance of a Parish Register,* by Reuben Gold Thwaites; *The West During the Last Years of the Revolution,* by James A. James. At the business meeting Professor James Alton James was elected president, and it was voted that the Association should undertake the publication of a quarterly magazine or journal.

THE STATE HISTORICAL SOCIETY OF IOWA

The membership of The State Historical Society of Iowa has now passed the six hundred mark.

The annual meeting of the Society was held on the evening of June 24th, and the members of the Board of Curators who have served during the past year were reëlected.

Mr. Louis H. Brown has succeeded Mr. Clifford Powell as General Assistant in the Society. Mr. Powell graduated in June from the College of Law of the State University of Iowa and will now take up the practice of law.

At the meeting of the Board of Curators on July 9th the officers who have served during the past year were reëlected, namely: Mr. Euclid Sanders, President; Dr. F. E. Horack, Secretary; and Mr. Paul A. Korab, Treasurer.

The Superintendent, Dr. Benj. F. Shambaugh, represented the Society at the annual meeting of the Mississippi Valley Historical Association at Omaha in May. Dr. Louis Pelzer and Professor F. C. Ensign, both members of the Society, appeared on the program.

The following persons have recently been elected to membership in the Society: Mr. Claus L. Anderson, Stanton, Iowa; Mr. William B. Keffer, Des Moines, Iowa; Miss Caroline M. Noteboom, Java, South Dakota; Miss Charlotte M. Noteboom, Java, South Dakota; Mr. S. F. Rederus, Farley, Iowa; Mr. R. E. Twitchell, East Las Vegas, New Mexico; Mr. P. D. Van Oosterhout, Orange City, Iowa; Mr. W. J. Ainsworth, West Union, Iowa; Mr. D. B. Allen, Arlington, Iowa; Mr. Chas. R. Brenton, Dallas Center, Iowa; Mr. Johnson Brigham, Des Moines, Iowa; Hon. Maurice Connolly, Dubuque, Iowa; Mr. Nathaniel French, Davenport, Iowa; Mr. Hiram Heaton, Glendale, Iowa; Miss Mary K. Heard, Iowa City, Iowa; Mr. E. C. Perkins, Delhi, Iowa; Mr. E. E. Reed, Monticello, Iowa; Mr. H. W. Spaulding, Grinnell, Iowa; Mr. Wm. Theophilus, Davenport, Iowa; Mr. Jno. N. Birdsall, Alden, Iowa; Mrs. Mattie E. Calbreath, Lineville, Iowa; Mr. A. C. Clapp, Harlan, Iowa; Mr. Arthur D. Coleman, Farragut, Iowa; Dr. H. M. Hamblin, Washington, D. C.; Mr. B. J. Lambert, Iowa City, Iowa; Miss Helene Landsberg, Iowa City, Iowa; Mr. C. H. Luecke, Harlan, Iowa; Mr. Charles G. Marshall, Corning, Iowa; Mr. H. G. Moore, Wellman, Iowa; Mr. Chas. W. Mullan, Waterloo, Iowa; Mr. C. G. Saunders, Council Bluffs, Iowa;

Rev. Chas. Cecil Smith, Farragut, Iowa; Mr. Harry Thompson, Earling, Iowa; Mr. Blake V. Willis, Perry, Iowa; and Mr. Herman J. Zeuch, Davenport, Iowa.

RESEARCH WORK IN THE SOCIETY

Research work along many lines is being carried on in the rooms of The State Historical Society of Iowa during the present summer months. In addition to the regular research staff of the Society a number of men from various schools and colleges in Iowa and other States have taken up residence in Iowa City for the summer and are conducting investigations under the direction of the Superintendent.

Professor F. E. Haynes of Morningside College is making a study of the third party movements in Iowa history. Professor F. H. Garver of the Montana State Normal at Dillon, Montana, is completing his work on the history of county government in Iowa. Further investigations along the line of the history of poor relief in Iowa are being made by Professor John L. Gillin of the University of Wisconsin. Mr. Karl J. Knoepfler of Cedar Falls is pursuing his study of the "Half Breed Tract"; and Professor O. T. Hokaasen of the Iowa State College at Ames is doing preliminary work along the line of the part played by Iowa men in Congress. Mr. O. K. Patton of Iowa City is writing a history of marriage and divorce legislation in Iowa.

The largest single piece of research is that being conducted by Dr. Clarence R. Aurner of the regular staff of the Society. Dr. Aurner is writing a history of education in Iowa which, when completed, will probably occupy six volumes. Mr. Louis T. Jones has about finished his history of the Quakers in Iowa. Other lines of research are being carried on by Professor Frank E. Horack, Mr. Jacob Van der Zee, and Dr. Dan E. Clark.

NOTES AND COMMENT

Mrs. Clara V. Weaver, widow of the late Gen. James B. Weaver, died in Des Moines on July 7, 1913.

A monument on the site of Fort John, built by the early settlers at the time of the Indian scare of 1854, was unveiled at Janesville, Iowa, on June 21st.

Sixteen medals were awarded this year by the Iowa Sons of the American Revolution to students in the various colleges of Iowa who ranked highest in the study of American history.

The last General Assembly of Iowa passed a law providing for the granting of pensions to survivors of the famous Spirit Lake Expedition. Five persons have thus far applied for pensions under this law.

A tablet to the memory of William Salter, George Temple, William B. Remey, Bernhart Henn, Anthony W. Carpenter, William F. Coolbaugh, and Levi Hager, all pioneer residents of Burlington, was installed at the Historical Department at Des Moines on June 17th. The tablet was provided for in the will of the late Edward Ames Temple.

The Old Palace of the Governors at Santa Fe, New Mexico, which dates back over three hundred years to the early days of the Spanish régime, has been repaired and restored as nearly as possible to its original appearance. This historic building, one of the oldest in America, is now the home of the Museum of New Mexico, the School of American Archaeology, and the Historical Society of New Mexico.

The Fourth of July was very fittingly celebrated at Lincoln, Nebraska, by a historical pageant depicting in a number of scenes the history of the State. There were nineteen floats in all, representing

the Indians in camp and on hunting trips, the purchase of Louisiana, the Lewis and Clark expedition, the fur traders, military life in the West, the missionaries, the Mormons, the days of the freighters, the pony express, and various other phases of pioneer life.

The forty-second annual reunion of the Old Settlers Association of Cedar County was held at Tipton on June 10, 1913. The following persons were in attendance, the year indicating the year in which each person settled in Cedar County: Samuel P. Foy (1838), Charles W. Carl (1838), Thomas Gray (1839), James H. Fulwider (1839), Mrs. Catherine Hall (1839), Alexander Moffit (1840), Mrs. Ellen McClure (1842), John P. Mathews (1842), Margaret Birely Huber (1843), Peter McNee (1843), Mrs. John Mason (1843), William Murray (1845), Mrs. Angelina Walters (1846), Amanda Walters (1847), W. L. Van Meter (1847), Mrs. Robert Gaige (1848), John W. Reeder (1850), W. B. Reeder (1850), A. C. Reeder (1850), Mrs. Fred Hecht (1850), Mrs. J. W. Argo (1850), and William Elliott (1850).

TABLET DEDICATED AT FAYETTE

At Fayette, Iowa, on the 10th of June, 1913, during commencement week at Upper Iowa University, there was dedicated a bronze memorial tablet, bearing the names of a group of students who went from that school into the army in the fall of 1861 as members of the Twelfth Iowa Infantry.

On September 15, 1861, in response to a call, a meeting was held in the college chapel, which was largely attended by students and instructors. After several patriotic speeches twenty-two names were quickly enrolled, thus forming the nucleus of what became Company C of the Twelfth Infantry. On the following day the boys separated to their respective homes for the purpose of securing recruits, returning by agreement in one week, when they were able to report one hundred and one names, including the original enrollment. Just thirteen days after the meeting in the chapel the company was accepted by Governor Kirkwood, and just one month from the day of the chapel meeting the company marched in lumber wagons to Manchester, the nearest railway station, on its way to

Camp Union at Dubuque. Of the original chapel enrollment two went into other regiments and one was rejected, leaving nineteen of the originals. Later, other Upper Iowa students joined the regiment, finally swelling the number in the Twelfth Infantry to twenty-six.

The following is the list of names on the tablet, without designation of rank:

William W. Warner, David B. Henderson (later Speaker of the United States House of Representatives), George W. Cook, Henry J. Grannis, James Barr, David W. Reed, Philo R. Wood, Frank W. Moine, Daniel D. Warner, Henry O. Curtis, G. Irwin Comstock, John E. Kent, Samuel C. Beck, Abner C. Bushnell, Andrew J. Davis, Leroy Lewis, Albert P. Munger, Henry C. Smith, Jacob R. Smith, Edward H. Adams, John Hazlet, Joseph W. Rich, Nelson B. Burdick, Frank Comstock, Robert Z. Latimer, and John P. Strong.

The dedication ceremonies, presided over by Comrade Joseph W. Rich, were very simple, the main feature being an address by Comrade Philo R. Wood. Mr. Wood told of the organization of the company, and of the making of a flag by the young women of the school and its presentation by them to a young man of their own choice. The tablet was unveiled by Misses Dorothy and Blythe Parker, granddaughters of the first surgeon of the regiment. The presiding officer presented the tablet to the Trustees of the University, and the response was made by President R. Watson Cooper.

In the presentation speech it was suggested that it would be peculiarly fitting for the young women of the University to erect a monument over the grave of Sergeant Henry J. Grannis in commemoration of his devotion to the flag given into his care by the women of the University fifty years before.

Only six or seven of the comrades whose names appear on the tablet are now living and only three were present at the ceremonies. The memorial tablet is the gift of Henry C. Curtis, whose name appears thereon.

CONTRIBUTORS

Louis Pelzer, Assistant Professor of American History in The State University of Iowa. (See The Iowa Journal of History and Politics for January, 1913, p. 142.)

Jacob Van der Zee, Research Associate in The State Historical Society of Iowa. (See The Iowa Journal of History and Politics for January, 1913, p. 142.)

Clifford Powell, General Assistant in The State Historical Society of Iowa. (See The Iowa Journal of History and Politics for April, 1913, p. 302.)

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CONTENTS

Some Hungarian Patriots in Iowa . LILLIAN MAY WILSON 479

Old Fort Madison: Some Source Materials 517

The Work of the Thirty-fifth General Assembly of Iowa
FRANK EDWARD HORACK 546

Some Publications 601

Americana—General and Miscellaneous 603

Western 612

Iowana 614

Historical Societies 620

Notes and Comment 630

Contributors 632

Index 633

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THE IOWA JOURNAL OF HISTORY AND POLITICS

OCTOBER NINETEEN HUNDRED THIRTEEN

VOLUME ELEVEN NUMBER FOUR

SOME HUNGARIAN PATRIOTS IN IOWA

[The Hungarian colony of New Buda in Decatur County, Iowa, established soon after the close of the ill-fated revolution of 1848 in the mother country, was a unique and interesting community which has long since disappeared from the map of the State. The following paper makes no pretense to being a history of New Buda — a history yet to be written — but it does reveal something of the lives and characters of the men who were the leaders in the little colony.— EDITOR.]

INTRODUCTION

As the twelfth day of August in the year 1849 drew to its close, Hungary, half in hope and half in despair, awaited the concluding act in her struggle for liberty. In the little village of Boros Jenö, Görgei, her commander-in-chief, had completed negotiations with the Russian ally of Austria. The following day brought the final humiliation of Hungary — the surrender of her army to the Russian General Rüdiger.

Added to the bitterness of Hungary's failure was the loss of her statesmen and military leaders. Of all those who had been foremost in the struggle, only Görgei was permitted at its close to remain at home in safety — Görgei, the man who, in her disappointment, Hungary believed had betrayed her. Scores of those who in national councils and on battlefields had worked for her redemption, now paid upon Austrian scaffolds and at the point of Austrian rifles the extreme penalty for their loyalty. Others escaping in disguise were fugitives: Kossuth with about five thousand refugees was in Turkey; a large number were scattered in various parts of Europe. All of them hoped for a favorable change in the affairs of Hungary which would make possible their return. But as the months passed by it became evident, even to the most sanguine, that their lives for a

few years at least must be spent in exile; or, as one of them wrote in later years: "We found we must hunt a second home, and it was easy for us to decide that there was but one free, happy country in the world — the United States of America."

COUNT LADISLAUS UJHAZY

Late in the year 1849, a party of these exiles under the leadership of Count Ladislaus Ujházy assembled in London and began making plans for emigrating to America. Naturally the United States sympathized with the Hungarian cause, and the cordial welcome which the government and the people were ready to extend to the patriots was expressed in a letter written by President Taylor to Count Ujházy on his arrival in America, which reads as follows:

Count Ujházy, Washington, Dec. 20, 1849.

Sir:—

I have duly received your letter of Nov. 2nd from London announcing the determination of yourself and comrades to seek an asylum in America.

The people of this republic have deeply sympathized with the Hungarians in their recent struggle for constitutional freedom, and in the calamities which have befallen their unhappy land; and I am sure that I speak the universal sentiment of my countrymen in bidding you and your associates a cordial welcome to our soil, the natural asylum of the oppressed from every clime. We offer you protection and a free participation in the benefits of our institutions and our laws, and trust that you may find in America a second home. I am with high respect,

Your sincere friend, Z. TAYLOR.

Ladislaus Ujházy
late Governor of Comorn
Hungary.[1]

These refugees were not of the Hungarian peasant type, as are the immigrants who have since flocked to the mines

[1] From a copy of the original letter, furnished to the writer by Mrs. Lajos Madarász.

and factories of America. Instead, they were men of gentle birth and belonged to the old Magyar stock which, six centuries before, had given to Hungary a written constitution, and had made it an elective monarchy; and which, three centuries later (1526) when their own royal house had become extinct in the male line, had accepted as their king the Hapsburg emperor of Austria, a descendant through the female line, but only on the express condition that he and his successors should be crowned with the ancient crown of Hungary, and rule according to the provisions of the Hungarian constitution. It was this same stock that for the last three hundred years had opposed the encroachments of the despotic Hapsburgs who, again and again, had deliberately violated their coronation oath. The war which these Magyars had just fought and lost was not waged, primarily, for the establishment of any new idea of freedom, but for the maintenance of their ancient liberties. The idea of establishing a republican form of government in Hungary, which was advocated by Kossuth and the patriots of his type, was an outgrowth of the revolution and not one of its causes.

Count Ujházy,[2] the leader of this company of refugees, was, at the time of his exile, about sixty years of age. He was a representative of one of the oldest and wealthiest families of the Hungarian nobility, and belonged to that generation of ardent patriots which took so large a part in Hungarian affairs during the early half of the last century. He was an intimate and devoted friend of Kossuth; and when in 1836 Kossuth was arrested for circulating his famous hand-written newspaper, and, contrary to law, was imprisoned without being admitted to bail, Ujházy, in the county parliament of Sáros protested against the illegality

[2] According to Dr. Alexander Márki, Professor of History in the University of Kolozsvár, Hungary, Ujházy was "föispan" of the County of Sáros, and in his case this title was invariably translated in America as "Count".

of this procedure. He came near paying dearly, however, for his loyalty to his friend. He was promptly indicted for high treason, but for some reason his trial was delayed, and finally prevented by the amnesty of 1841, which also brought about Kossuth's release from prison.[3] Ujházy was afterwards appointed "Foispan" or Governor of the County of Sáros, and was recognized in the Diet as one of the most eloquent magistrates in the liberal party. When the Kossuth provisional government was established in 1848, he was appointed Governor of the County of Comorn,[4] the capital of which is a royal free city of the same name located on an island in the Danube, and was a strategic point of considerable importance. It was the last Hungarian fortification to surrender to the Austrians, and its garrison was the only one accorded the honors of war.[5] Ujházy was given a passport to leave the country, but was forbidden to return. All of his thirteen estates, excepting one, were confiscated by the government. Included in the confiscated estates was the district in which the famous imperial Tokay wine is produced. This particular portion of the property the Emperor retained for himself.

Though defeated and exiled, the Hungarian patriots, for a time, refused to admit that their cause was ultimately lost. Kossuth, in Turkey, still claimed the title of "Governor of Hungary", and in that capacity appointed Ujházy as his representative in the United States, giving him the following letter as his credentials:

I undersigned, Governor of Hungary, by this letter name Ladislaus Ujházy, Supreme Count of the County of Sáros and Civil Governor of Komárom, plenipotentiary Envoy and Representative of the Hungarian Nation in the United States of North America,

[3] See *Hungary and Its Revolutions,* by E. O. S., p. 456.

[4] This name is variously spelled Comorn, Komorn, and Komaron. Throughout this paper geographical and other proper names are spelled according to the American usage, which differs in many cases from the Hungarian spelling.

[5] See Klapka's *War in Hungary,* Vol. II, pp. 82–84.

entrusting him thereby with full powers and liberty to represent the Hungarian Nation in accordance with his instructions, until his revocation, before the government of that generous and high-minded nation.

Broussa, Asia Minor,
March 27th, 1850. *(SEAL)* KOSSUTH LAJOS
Governor of Hungary[6]

Although Ujházy was not accredited at Washington as Hungary's representative, the deference paid him personally by high officials in the United States is indicated by numerous letters which he received after arriving in America. One of these letters was written by Governor Fish of New York, and reads as follows:

General Ladislaus Ujházy, Albany, Jan. 4, 1850.
New York.

Sir: I avail myself of the first opportunity to acknowledge the receipt of your esteemed favor, from which I am happy to learn that we may anticipate the gratification of extending a welcome at this place to a gentleman whose heroic defense of the liberty of his country has excited our warm and enthusiastic admiration. Our country affords a home and an asylum to all who seek a refuge from tyranny and from oppression, and our hearts are ever ready to warm toward the brave, although they may have been unsuccessful defenders of liberty and the rights of man. I believe, Sir, that none have ever sought that refuge, which we are glad to open to all, for whom their own valor and the righteous justice of the cause in which they nobly periled their lives, have assured a more sincere welcome, or a higher place in the respect and affection of our people, than that which is freely accorded to yourself and to your brave compatriots. You have not come to a land of strangers. Your virtues and your valor have made you known to us, and have made us your friends. You and your compatriots will ever find friends and a welcome among our people.

Be assured, Sir, that whenever your engagements shall enable you to visit this place, it will afford me the greatest satisfaction to pay my respects to yourself and your friends.

[6] From a copy of the original document, now in the possession of Mrs. Lajos Madarász.

Accept the assurance of the high respect with which I have the honor to be,

Your most obedient servant,

HAMILTON FISH.[7]

Similar in its cordial though cautious tone is a letter written by General Lewis Cass:

Washington, Aug. 21, 1850.

My dear Sir:

I have recently received a letter from General Kossuth dated at Kutayah in Asia Minor, in which is the following paragraph:

"Let me hope that should Mr. Ujházy (my oldest and best friend and present representative in the United States) in the interest of the holy cause to which you have so generously your protection accorded, address himself to you for something which you might, in your wisdom judge practical and convenient, you will not withhold from us your powerful support."

It affords me pleasure to be the medium of communicating these sentiments of regard from your old friend and General who commands the respect and esteem of every lover of freedom in this world.

I trust you find your new residence as comfortable as you expected. Certain I am that wherever you go, you will meet the warm sympathy of the American people for your services and sacrifices in the cause of human freedom. The noble effort of the Hungarians has endeared them to my countrymen; and misfortune has but increased the interest they feel in their favor. Their hour of deliverance will yet come. I am, dear sir,

Truly your friend,

Governor Ujházy. LEW. CASS.[8]

A few weeks after his arrival in America, Ujházy had an interview with President Taylor, and in accordance with the President's advice he decided to select land in Iowa. He and his party traveled by rail to Burlington and from there by stage and wagon westward about one hundred and

[7] From a copy of the original letter, now in the possession of Mrs. Lajos Madarász.

[8] From a copy of the original letter, now in the possession of Mrs. Lajos Madarász.

fifty miles to the newly organized and as yet unsectionized county of Decatur. The tract of land which Count Ujházy selected is in the southern part of the county, less than six miles from the Missouri border. It was a slightly rolling, fertile prairie; along its streams were belts of woodland, and when Ujházy and his friends first saw it, the prairie was doubtless covered with a heavy growth of blue grass. The nearest post-office and trading point was Princeton, Missouri, twenty miles to the south. Des Moines was one hundred miles north, but Des Moines at that date was little more than a village.

In honor of the old Magyar capital of Hungary, Ujházy named his settlement New Buda. His dream was to establish an extensive community in which the political life should be that of free, loyal American citizens, and the social and domestic life that of Magyar land owners. He rode for miles over the Iowa prairie, choosing sites for public buildings and fixing the boundaries of the New Buda of his hopes. On his own portion of the land he built a huge log "castle", which was by far the largest and most imposing building in the county at that time. Two years after its establishment, the new settlement was granted a post-office — the first one in the county — and the former Governor of Comorn was appointed postmaster.

The tacit assurance of obtaining land from the government on favorable terms was from the first held out to these refugees; and the probable generous dealing of Congress suggested by President Fillmore in the following cordial letter written soon after he succeeded to the Presidency, refers to the granting of public lands in Iowa to the New Buda settlement:

Ladislaus Ujházy, Washington City, D. C. Oct. 24, 1850.

My dear Sir:—

Your letter of the 8th ultimo came to hand a few days since, and I was gratified to learn that your weary pilgrimage had at last

come to an end, and that you had found a resting place, and I trust an asylum in the new but fertile state of Iowa.

Accept my sincerest thanks for your kind congratulations at my unexpected elevation to the Presidency. When I met you here, I never expected to occupy this position. A painful disposition of Providence has, however, cast upon me the burden and responsibility of this distinguished station; but whether for honor or dishonor, for weal or woe time alone can determine.

You have seen enough of the cares and uncertainty of official life to appreciate its labors and its instability. I look for my reward, whatever may be the result, only in the consciousness of an honest endeavor to discharge my duty faithfully and impartially to my whole country. That being done, its destiny is in the hands of the supreme arbiter of human affairs in whose justice and mercy I have the most abiding confidence.

Though we make it an invariable rule as a nation not to interfere in foreign wars, yet our people feel a deep sympathy for the oppressed everywhere, and are ready to extend a liberal hand to those who suffer in the cause of freedom. I cannot doubt therefore that Congress will deal generously with those Hungarians who have sacrificed all for independence and freedom, and are now exiles in a strange land.

I am gratified to hear that you received communications from the noble and gallant Kossuth. I shall always be most happy to hear of his health and prosperity, and to receive through you any communication intended for me or for the American government.

With my sincere prayers for your health and prosperity and for the health and prosperity of your associates, I remain,

Your obt. svt. MILLARD FILLMORE.[9]

The same question of provision for the refugees was still more definitely mentioned in the following letter written about the same date as the above, by William H. Seward, then United States Senator from New York:

My dear Sir: Auburn, October 22nd, 1850.

Your letter of the 18th of September followed me from Washington to my residence here after the adjournment of Congress.

[9] From a copy of the original letter, now in the possession of Mrs. Lajos Madarász.

I congratulate you, your family and your compatriots in having found a resting place in a region as fertile, as beautiful and as prosperous as that which you have so wisely chosen. The late opening of the legislature was absorbed with subjects of such intense interest as seemed to forbid the action I decreed in favor of the Hungarian patriots who have sought an asylum in our country.[10] But I entertain a confident hope that the subject will receive the favorable consideration of Congress at its next session which is now near at hand. Be assured, my dear sir, of my own disposition to secure to you and to your brethren such aid as is partly due in regard, not merely to your own sacrifices and sufferings in the cause of liberty, but also in regard to the character of the American people. I am, with greatest esteem and respect,

Your friend and obedient servant,

WILLIAM H. SEWARD.

Ladislaus Ujházy,
late Governor of Comorn,
New Buda, Decatur Co., Iowa.[11]

As intimated by Mr. Seward, a resolution was introduced in Congress looking to the appropriation of land for the Hungarian refugees, but no definite action was taken. In January, 1855, however, President Pierce issued an order reserving from sale the land occupied by the Hungarian exiles; and in May, 1858, Congress passed an act extending to the settlers on this reserved land the privilege of securing title to the land they chose to occupy, upon payment of $1.25 per acre, and charging no interest for the time they had already occupied the land. There was no limit to the amount of land which each refugee might take, but only a few, if any, of them took more than two hundred acres. Many years later Galusha A. Grow stated to a son of one of these patriots that this generous provision for the Hungarian refugees suggested to him his famous Homestead Act of 1861.

10 Subsequently the legislatures of both New York and Iowa passed resolutions favoring the granting of lands to the Hungarian refugees.

11 From a copy of the original letter, now in the possession of Mrs. Lajos Madarász.

Before this legislation in favor of the Hungarians was passed, however, a considerable number of the New Buda settlers found that Iowa winters were too severe for the successful raising of grapes; and this was the branch of horticulture with which they were most familiar. Accordingly, in 1853 Count Ujházy and many of his original party removed to San Antonio, Texas, where, by a concession of the government, he and his friends acquired a considerable amount of land.

But it was difficult for the man born to an inheritance of thirteen estates with scores of tenants to adjust himself to the straightened economic conditions of western farm life sixty years ago. To cut the forests was contrary to Count Ujházy's ideas of the dignity of a land owner, consequently the timber on his land remained untouched, though it made a fortune for later owners. He maintained the same lavish hospitality and, as far as possible, the manner of living to which he had been accustomed in Hungary. His house was open to army officers, officials of various rank and others whose refinement and education made them congenial company. Horses were provided for his guests who were warmly welcomed as long as they chose to remain, the only requirement being good breeding. One of the early recollections of San Antonio is of the Count's custom of driving into town behind six white mules, all perfectly matched. Socially, this sort of life was picturesque, but financially the Texas ranch was not a success.

Count Ujházy's wife had bravely shared his exile, but she died a short time after reaching Iowa. Of his twelve children, five came with him to America. In his domestic life, this commander of men was the kindest of diplomats. A remarkable linguist himself, he had required that each of his children be taught to speak fluently at least one language besides their mother tongue; and if necessary to reprove a child in the presence of others, he did so, whenever possible,

in a language that only the child spoken to would understand.

In 1867, the Austrian government proclaimed a general amnesty permitting all of the exiled patriots to return to their native land. The descendants of Count Ujházy in America claim that only his children were included in this amnesty, but that he was still excluded. Professor Márki of the University of Kolozsvár states that no one was excluded from the amnesty of 1867, but that "on May 16th, 1867 Ujházy protested in an open letter against the 'Ausgleich' between Austria and Hungary, and remained abroad by his own will."[12] At any rate, Ujházy evidently thought it unwise, or possibly unsafe, for him to return to Hungary, though he believed it best for his children to do so. Accordingly, the brave old hero at the age of eighty-three determined to make his last sacrifice. His children would not go back to Hungary leaving him in exile, so he took his own life in order to make possible their return. One daughter, Ilona (Helen), wife of Vilmos Madarász, remained in America. His other children, three sons and a daughter, returned to Hungary. One of the sons, Laszlo, eventually came into possession of the one remaining estate, "Budemer", near Kassa.

Then it was that Hungary, so long forbidden to receive Ujházy when living, was allowed to claim him when dead, and his body and that of his wife were laid in the crypt of the old church at beautiful Budemer, where rest so many generations of his forefathers.[13]

LADISLAUS MADARASZ

One of the names longest associated with the New Buda settlement is that of Ladislaus Madarász. By his com-

[12] From a letter written by Professor Márki in May, 1913, in answer to an inquiry regarding the terms of the amnesty of 1867.

[13] The tombs in this old crypt indicate that it has been a burial place for members of the Ujházy family for more than eight centuries.

patriots he was considered the most talented member of that group of unusually brilliant men. The son of a distinguished family, he had received the usual education and training of a Magyar nobleman. He was described, even in his later years, as being an ideal "prince of courtiers — the personification of suavity and politeness," and as having also that nameless quality which marks a leader of men. His political career in Hungary began while he was still in college. "You will revolutionize the country," his professor had said to him when the young man's reform speeches began to attract attention.

Immediately after leaving college he had thrown himself eagerly into the movement of resistance to the oppression of Austria, and when, in 1832, Kossuth first became prominent through his published report of the speeches and proceedings of the Diet of that year, young Madarász became his enthusiastic admirer and disciple. His ability as a leader became so generally recognized that in 1848 several counties elected him as their representative in the Diet. From among the offers, he accepted that of the county of Csakvár, and was soon afterward appointed minister of the police of Hungary.[14]

His younger brother, Joseph, was also in the Diet as representative from another county, and the radical views of the two brothers soon brought them into still greater prominence. The first question brought before the Diet was that of granting troops to the King (Ferdinand of Austria) to assist him in suppressing the uprising in Italy. The Radical party bitterly opposed this measure, and in the debate that followed, the two brothers Madarász, "noted for their impetuosity," says one historian, spoke with vehemence and even went so far as to accuse the ministers of treason. This accusation threw the Diet into such confusion

[14] From a translation of an historical sketch which appeared on November 11, 1909, in *Szabadság,* a Hungarian newspaper published in Cleveland, Ohio.

that Kossuth's presence and tactful explanations were required to restore it to order.[15]

Kossuth, however, seems to have admired the impetuous Madarász and to have found in him much that would be of service to himself personally and to the cause of Hungary; for when, two months later, the Diet made Kossuth head of the provisional ministry, he appointed Madarász a member of his Home Protection Cabinet. Another member of this cabinet was Paul Nyári, a patriot who shared Madarász's extreme views; and like Madarász he was anxious for the abolition of the monarchial system in Hungary.

At one time, though probably not in a cabinet meeting, the three friends, Kossuth, Madarász, and Nyári, had in their hands the fate of a crown, if not of a kingdom. They were seated in a room before a large open fire-place; in their possession was the ancient crown of Hungary — the crown of St. Stephen. "What shall we do with it?" Nyári asked. "Throw it in the fire!" Madarász exclaimed with characteristic impetuosity, and made a movement to carry out his suggestion. But Kossuth interposed. "No," he said, "we will not destroy it, at least not yet", and with that he took the crown and hid it behind a loose stone above the fire-place.[16] A year later when Kossuth fled to Turkey, wild stories were circulated that he had stolen the crown of Hungary. As a matter of fact, he and his followers took the crown with them to prevent its falling into the hands of the Austrians. But when they reached the Turkish frontier, they buried the crown with appropriate ceremonies on Hungarian soil, and all those participating in the ceremony were sworn to secrecy. For several years the question of delivering the crown to the Austrian monarch, on

15 *Hungary and Its Revolutions*, by E. O. S., pp. 335, 336; and a historical sketch in *Szabadság*, November 11, 1909.

16 Reminiscence related by Mrs. E. F. Reed of Grand Junction, Colorado, daughter of Ladislaus Madarász.

condition that he recognize the rights of Hungary and restore the constitution, was the subject of correspondence between Kossuth and Madarász and other New Buda patriots.[17] There was considerable difference of opinion regarding the matter, but the crown was finally delivered to Francis Joseph and is to-day the badge of his kingship of Hungary.

Madarász was still one of the leading spirits in the Diet when, in order to secure its safety, the seat of government was removed from Pesth to Debreczin. As a member of the Debreczin Convention which met in March, 1849, he signed the Hungarian Declaration of Independence, and offered the resolution nominating Kossuth as Governor of Hungary.[18] After Kossuth's election, the perplexing question of finance naturally presented itself to the provisional government, and it was Madarász who devised the plan for issuing currency to be used by the revolutionists. Thirteen years later, Secretary Chase, after considerable correspondence with Madarász and upon his recommendation made this same plan the basis of the greenback system of currency in the United States.[19]

In the Debreczin Convention there was a considerable representation of the "peace party", men who were willing to sacrifice Kossuth, and, as some of the extremely radical patriots believed, even the welfare of Hungary for the sake of peace with Austria. Madarász's opposition to the members of this party was emphatic and fearless. Their attitude toward him was equally antagonistic, and their influence proved strong enough to prevent his reappoint-

[17] Reminiscence related by Mr. E. J. Hainer, who as a boy overheard the discussions regarding the disposition of the crown.

[18] Historical sketch in *Szabadság*, November 11, 1909.

[19] Unfortunately, Madarász, before his death, destroyed much of his correspondence, including that with Secretary Chase; but Mr. E. J. Hainer, now of Lincoln, Nebraska, and other former members of the New Buda community distinctly remember hearing it read and discussed.

ment to the cabinet when it was reorganized a few months after Kossuth was elected Governor.[20] He remained an influential member of the Diet, however, until the surrender of Görgei; and even in that crisis, the bewildered patriots turned to Madarász. The news of Görgei's surrender was brought to his house at a late hour in the night. Soon afterward, a body of under-officers waited upon him and asked him to lead them against the Russians. This proposition, however, was as impractical as it was patriotic. All of Hungary's forces, save a few scattered remnants, were in the hands of the Russians, and the only safety for her patriots was in flight.

Madarász went first to a town near Vienna where his secretary met him with a suit of workingman's clothes, some money, a ticket to Hamburg and a passport for a "cooper". On the arrival of the train at Munich, a police officer with telegraphic orders to arrest Ladislaus Madarász entered the compartment where Madarász sat. "What is your trade?" the officer asked. "A cooper", Madarász replied. "You have very fine white hands for a cooper," the officer replied with a smile as he left the compartment. Whether he suspected the identity of the cooper is a matter of conjecture. Throughout Europe the sympathies of the common people were with the Hungarian patriots, and there were numerous instances of apparent credulity on the part of the police, and even on the part of under-officers in the Russian and Austrian armies. Between Berlin and Hamburg, a woman and a little girl occupied the compartment with Madarász. At Hamburg there were more police officers with orders to arrest Madarász, who was described as traveling alone and in the disguise of a cooper. As there was no one at the station to meet the woman and her child, Madarász, with the courtesy of a fellow-traveler, took their

20 Historical sketch in *Szabadság*, November 11, 1909.

baggage, offered the woman his arm, called a cab, and drove with her to a hotel; and the police took no notice of the workingman accompanied by a woman and a little girl.[21]

Madarász's wife, the Baroness Elizabeth Majthényi, had died six years before his flight from Hungary. His only child, a son (Vilmos) about thirteen years of age, was, through the efforts of friends, enabled to join his father in Hamburg. Together they went to London, and in the following year they came to America and to the New Buda settlement.

Practically all of Madarász's property had been confiscated by the Austrian government, so that it was necessary for him after coming to America to take up the unaccustomed work of a pioneer farmer and endure the hardships of frontier life. Through it all, however, his generosity and hospitality were unfailing. His compatriots, especially some of those who came at a later date, were temporarily without means, and were welcomed for months at a time at his home. Others, in better circumstances, came to the settlement on account of their friendship for him. One such guest later bore his share in the affairs of his adopted country. This was Theodore Majthényi who came to New Buda with his father, Baron Majthényi, a brother of Madarász's first wife. At the opening of the Civil War, Theodore Majthényi enlisted in the northern army, and was soon afterwards appointed Adjutant in Fremont's bodyguard, which was commanded by Charles Zágony, another Magyar, though not of the New Buda group. On October 25th, 1861, when Zágony made his brilliant charge into Springfield, Missouri, routing a detachment of Price's army which greatly outnumbered his own force, Adjutant Majthényi was one of those who distinguished themselves, and received special mention in the reports of the action.[22]

[21] Reminiscences related by Mrs. E. F. Reed, daughter of Ladislaus Madarász.

[22] Information furnished by the War Department of the State of Missouri.

Another of Mr. Madarász's guests was the naturalist János Santösh, who, assisted by his host, made a large collection of insects for the National Museum of Hungary.[23]

Mr. Madarász's younger brother, Joseph, was imprisoned for several years after the revolution, but was released about 1860. In 1865 and 1867 he was again in the Diet, fighting the battles for personal rights, property security, and self-government in Hungary. Soon after his release from prison, he visited his brother Ladislaus in America, and after the Austrian government in 1866 proclaimed an amnesty in favor of the exiled patriots, he tried to induce his brother to return to Hungary and enter political life again.[24] But all hope of establishing a republican form of government in Hungary, the dream of the elder Madarász's life, had vanished; and rather than accept a compromise, he chose to live his peaceful life in America, in the companionship of a few friends of his earlier days, exiles like himself, who loved and trusted him, and surrounded by his American neighbors who had welcomed him in his exile.

Like others of his compatriots at New Buda, Mr. Madarász was an exceptional linguist. Latin, in his time, was the language used in the courts of Hungary; and in his boyhood he was for several years required to use it always in addressing his father. In 1894, at the age of eighty-three, he was asked by his youngest daughter to assist her in translating a passage in Virgil. Without looking at the text-book, the father recited the first two books of the Aeneid and translated them into German.

In 1855, Mr. Madarász was married to Sybilla Asbach, a daughter of a German family. Eight children were born of this marriage, six of whom are still living. Vilmos, his

[23] Reminiscences related by Mrs. E. F. Reed, daughter of Ladislaus Madarász.

[24] Joseph Madarász, now ninety-nine years of age, is still a member of the Hungarian Diet.

son by his first wife, married Count Ujházy's daughter Ilona, and later removed to Texas. Two sons of this marriage (grandsons of both Madarász and Ujházy) grew to manhood. One of them, Lajos (Louis) Madarász, who died in San Francisco, California, in December, 1910, had a national reputation as a skillful penman.

For many years Madarász corresponded with leading statesmen in America: with Lovejoy and others regarding the slavery question, with Salmon P. Chase regarding the Greenback system of currency, with others regarding the issues of the Civil War and reconstruction; and at a later date with still others regarding the tariff. Again and again he was offered political appointments, but always his reply was the same: "You are welcome to any suggestions that my experience may afford, but I wish no office — nothing that will bring me into prominence. My life work was in my own beloved country, and through no fault of mine, was a failure."

But as the years passed, his love for Hungary, the strong passion of every Magyar heart, overcame even his disappointment at her failure and his. To an old friend he wrote letters filled with expressions of longing for his own country, but his advanced age made the journey impossible. His life of more than ninety-eight years closed on November 6, 1909, at his home near Good Hope, Missouri, where he had gone from Iowa a few years before.

FRANCIS VARGA

In the autumn of 1849, while Madarász was in London, he became acquainted with one of his exiled countrymen whose friendship proved one of the compensations of his sixty years of exile. This man was Francis Varga, who, during the following year, joined Madarász in New Buda. By birth and early training he was as little fitted for the life of a pioneer farmer as were Ujházy and Madarász. He was

born in the city of Debreczin, and had received his education at the Debreczin University, in which his father, Stephen Varga, was a professor of theology. His mother, Clara Péczely, was the daughter of the Rev. Joseph Péczely, a distinguished Presbyterian clergyman. Her brother, Joseph Péczely, Jr., was a prominent professor of Latin, universal history, and Greek eloquence. In 1830, the father, Stephen Varga, died, and the care of the thirteen year old son Francis was entrusted to his uncle, Joseph Péczely, who directed his education and to a considerable extent shaped his career.

At the age of twenty-three Francis Varga was admitted to the bar, and began the practice of law in Torontál, one of the southern counties of Hungary. Just before the outbreak of the revolution, Varga, then thirty-one years of age, was elected Vice Lord Lieutenant of Torontál; and after the establishment of Kossuth's provisional government he was made Commissioner with full power to act in his county. He was also appointed judge of a special tribunal, having authority in cases of treason, and from his decrees in this court there was no appeal.[25]

In the southern part of Torontál were a great many Servians who were always more or less unfriendly to the Hungarians; and at the time of the revolution they were incited by the Austrians to insurrection and encouraged to commit the foulest murders and other crimes. The situation in which the young attorney was placed was, therefore, a difficult one, and it proved his resourcefulness and capability.

On investigation, Varga found that a priest of the Greek Church was the agent mainly responsible for the atrocities in Torontál, and summoned him before the court. The priest plead the sanctity of his office, and claimed that he

25 From an autobiographical sketch written by Mr. Varga a few months before his death.

could only be called to account by his bishop. This plea was in accordance with the law, and Judge Varga ruled that the priest could not be tried at civil law until his bishop had relinquished jurisdiction over him. The bishop, however, flatly refused to appear in court, whereupon Varga remarked that the "mountain could not go to Mahommet, therefore Mahommet must come to the mountain." Calling his gendarmes, he ordered them to politely summon the bishop, but to take with them a large tarpaulin, and immediately upon delivering the summons to throw the tarpaulin over the bishop in his chair, and bring him carefully and safely, but surely, into court. The gendarmes obeyed the order to the letter. When the bishop, tarpaulin, and chair were brought into court, the judge, with all deference explained the evidence that had been found against the priest, and directed that the bishop and priest be conducted to a private room for a brief consultation. Accordingly the gendarmes conveyed the bishop in his chair to the judge's private office, and at the end of fifteen minutes brought him again into court. Judge Varga then gravely argued that as all the evidence in the case had been submitted to the bishop, and as he had been given every opportunity to verify the charges, the court felt assured that the bishop would certainly do what was right. Therefore, the court would order the clerk to enter on record the bishop's renunciation of jurisdiction over the priest, and would further order that the trial proceed. The priest was speedily convicted, and was executed at sunrise the next morning. As a result, the atrocities in Torontál were promptly discontinued.[26]

When Görgei surrendered, Varga was at Világos, only a few miles away, and with other prominent Hungarians was taken prisoner by the Russian officers, but escaped three

[26] Reminiscences related by Mr. E. J. Hainer, who was an intimate friend of Varga.

days later and began a long and anxious pilgrimage. Adopting various disguises, he wandered through Hungary for eleven months before he was able, with a forged passport, to leave the country. He spent a year in Hamburg, Altoona, and London, and then, as there was no favorable development in Hungarian affairs, he decided to follow his friend Madarász to New Buda. Varga's farming experience in Decatur County, which was moderately successful, covered a period of twenty years, or until 1871, when he was elected treasurer of the county and removed to Leon, the county-seat. In the meantime, he had married one of the young women of New Buda. Perhaps no member of the New Buda community became so thoroughly an American citizen as did Francis Varga. True to the highest ideals of manhood, he yielded unfailing loyalty to his country, his home, and his religion. So fearless was his patriotism, and so sincere and consistent his Christianity that in later years it was truthfully said that his whole life was a continuous lesson in manliness.

For more than thirty years he was prominent in local politics. He had many bitter opponents, for he was a strong partisan; and yet, so beyond question were his capabilities, his faithfulness, and his devotion to public welfare that no charge of political trickery was ever sustained against him. Only on one occasion was such a charge brought, and then, in his characteristically dramatic way, he routed his accusers.

Just before his election as county treasurer, his predecessor, who was of the opposite political party, had defaulted. Moreover, the law at that time prohibited the treasurers from loaning the county funds in any way whatsoever, but it had been the custom of many treasurers to make loans surreptitiously and pocket the interest. When Mr. Varga was elected he worked for the repeal of this law, and then, as he did not consider the vault in his

office a safe place in which to keep the money, he openly deposited it with reliable banks, making a good bargain for interest. This interest he used in paying the salaries of deputies and in defraying other county expenses. A few of his bitterest opponents, however, claimed that it was only a scheme to defraud the county.

While matters were in this condition, the town was startled at 3 o'clock one Sunday morning in the spring of 1877, by a terrific explosion. On hastening to the public square, the citizens found the courthouse in ruins. One of the walls enclosing the treasurer's office had been blown away by a charge of powder. This was a golden opportunity for Mr. Varga's opponents. Immediately the report was started that he had wrecked the courthouse and had absconded with the funds. By daybreak the report had reached the nearby towns. A son of one of the New Buda patriots was principal of the school in a village eight miles away. Immediately upon hearing the rumor regarding Mr. Varga, he saddled his horse, and with characteristic Magyar loyalty rode in hot haste to the county seat to champion the cause of his father's friend. Meanwhile, a crowd had gathered in the square, some accusing the treasurer, others defending him. When the wreckage was cleared away, the safe was found uninjured, but before displaying its contents, Mr. Varga addressed the crowd, telling them just how he had handled the county funds, and explaining that had the culprits succeeded in opening the safe they could not have robbed the county. He then read from the ledger the amount of money credited to each fund, and produced from the safe a certificate of deposit for each amount. Singling out the man who had been foremost in circulating the false reports, Mr. Varga called him forward and repeated the charges the man had made; and, shaking his long index finger under the man's nose, he shouted to the crowd: "That d—n rascal, himself, would do it." He then compelled the

man in the presence of the crowd to admit that the certificates of deposit tallied with the amounts shown on the ledger. By this time the sentiment of the crowd was overwhelmingly in Varga's favor, and if he had not interfered, his accusers would have been roughly handled.[27]

In all his years as a western farmer and as a leader in county politics, Mr. Varga never lost his courtliness of manner, nor the marks of his scholarly training and inheritance. During the greater part of his thirty-years residence in Leon he was a member of the school board and a frequent visitor of the schools. His especial interest was in the history, political economy, civics, and Latin classes. Generations of high school students will always remember the courtly old gentleman with white hair and beard and brilliant black eyes, who recited Virgil from memory and with a rhythm unimagined by them, and who always had a gracious compliment for their every effort.

In 1896, after forty-five years of exile, Mr. Varga and his son Stephen visited Hungary. Nearly all of those who had taken part in the revolution were either dead or still in exile. One, however, they found in Hungary. In a little town they passed the house where Görgei lived, shunned by all his people. Young Varga was eager to see the great military genius, but his father had not forgiven the man who had surrendered Hungary to the Russians; and his son, in deference to his father's wishes, did not insist upon making the visit.

On leaving Hungary, Mr. Varga took with him a small package of the soil. Six years later, when he died at the age of more than four score years, this soil from his beloved Hungary was placed beneath his head, with the inscription: "A handful of native soil to quiet the heart's longing."

27 Reminiscences related by Mr. E. J. Hainer, who accompanied Mr. Varga to the public square and assisted him in opening the safe.

The men who wrecked the building were arrested later and convicted.

GEORGE POMUTZ

The New Buda community contained a few members who were not content with the slow gains from agriculture. Even in the early fifties they became infected with the germ of "frenzied finance", and undertook to exploit a greater New Buda than Count Ujházy's most hopeful dreams had ever pictured. Chief among these enterprising spirits was George Pomutz.

Younger than the majority of the refugees, he had taken only a minor part in Hungarian affairs, and his flight to America had probably not been a matter of life and death as had been that of Madarász and Varga, but was doubtless more in the nature of an adventure, or at most, a means of escaping a brief punishment. He was one of the first settlers in New Buda, but in 1853 went with Ujházy to San Antonio, Texas. He returned a year or so later, however, and with his "major domo", Fakich, occupied Ujházy's log "castle". In appearance he was unlike the typical dark-skinned, black-haired Magyars. He is described as a tall blond with full beard and mustachios, and light, wavy hair. His bearing was distinctly military; and when mounted upon his white mare, "Highland Mary", he was an unusually striking figure. Besides his native language, he spoke French, German, and English fluently and with but slight accent; he quoted Byron freely and was evidently familiar with Burns. He had a decided charm of speech and manner, as many of the settlers had good cause to remember, for he occasionally used this gift to his own advantage and to their detriment, and was consequently unpopular with his compatriots.[28] In the unwritten annals of the settlement there are many stories of his sharp dealings with his neighbors, his skill in negotiating loans from

[28] From a sketch prepared for the Decatur County Historical Society by Mr. G. P. Arnold of Garden Grove, Iowa, based on his own recollections of Pomutz.

them, and his plausible schemes for inducing them to make investments from which he received all the returns.

But his aspiring nature was not content with practicing upon the New Buda community. With the aid of a draughtsman in the settlement, Drahos by name, he prepared a most attractive map of the "City of New Buda", showing Boehm University and Kossuth Platz, and College Square, together with libraries, parks, and avenues, on which he bestowed elaborate foreign names. It mattered nothing that the site of all this splendor was virgin prairie, and that the New Buda shown on the authentic maps of Iowa was only a rural post-office. So winning was the manner and so convincing was the speech of the promoter that in St. Louis and in Hoboken he sold and traded his city lots, and induced several German families to move to Decatur County in search of the fabulous City of New Buda. These exaggerated descriptions of New Buda gained a wide circulation; and even experienced historians were evidently misled by them, for in a history of Iowa published as late as 1876, New Buda is described as a "town" founded by Hungarian exiles. "One of its streets", the historian adds, "is denominated Magyar street, and the centre of the town is known as Kossuth Square."[29]

The outbreak of the Civil War interrupted Pomutz's city development enterprises. He was a born soldier, and he promptly responded to the call to arms. He was Adjutant and later Lieutenant Colonel of the 15th Regiment of Iowa Infantry. His war record was a brilliant one. He distinguished himself at Pittsburg Landing, the first action in which he participated, and later at Corinth and in other engagements. In an account of the services of his regiment, he is referred to as "a highly accomplished officer," who "rendered efficient aid as assistant adjutant general, and at

[29] Tuttle and Durrie's *History of Iowa*, p. 483.

the same time as engineer in connecting and strengthening forts, constructing short interior lines, etc.''[30] His New Buda associates, perhaps not without prejudice, attributed his success to one Kompolti, a compatriot who accompanied him through the war, and who was regarded by the Magyar patriots as the best tactician of them all.

Soon after the close of the war, Pomutz, as a recognition of his military service, was appointed Consul General to Russia. According to newspaper reports, he was accustomed to gratify his taste for the spectacular by appearing at public functions in St. Petersburg in the full regimentals of an American Brigadier General. He fulfilled the duties of his position very creditably, however, and remained at his post until his death, which occurred in 1894. Unlike the majority of his associates who were Protestants, Pomutz was an adherent to the Greek Church.

After his death, papers were found among his belongings which indicated immense wealth in American lands, and holdings of great value in the "City of New Buda." Encouraged by these apparent evidences, his creditors in Hungary were stimulated to make inquiry in the hope of collecting some of the Consul General's debts. But New Buda had long before passed, with clear title, into other hands, and Kossuth Platz and University Place were meadow land and cornfield; and the late diplomat's title deeds were of the same legal status as his highly colored plats.

IGNACE HAINER

One November day in the year 1856, two black-bearded men with ox teams drove down the main street of Princeton, Missouri, and stopped at a hotel. They were Hungarians from New Buda, and had come to buy the winter's supply of groceries for the settlement.

[30] Byers's *Iowa in War Times*, p. 504.

Princeton was unusually excited that November day. The District Court was in session; and with land title disputes, shooting affrays, and horse stealing cases, it was a busy tribunal in those early times. But more than this, it was also the time of the presidential election, and the hotels were crowded with politicians, jurymen, and attorneys.

The Hungarian ox-drivers, with their rough clothing and heavy boots bespattered with mud from their twenty-mile walk, hoped to find a corner in the dining-room where they might eat their dinner unnoticed. But in those days, a Hungarian refugee was almost certain to be a guest of honor wherever he went, and the landlord insisted upon seating the New Buda men at the table with the presiding judge. This official immediately entered into conversation with the guests, and soon learned that one of them not only spoke English fluently, but German and French as well, and was familiar with the classics of both languages. Before leaving the table, the Judge, who was also one of the regents of the University of Missouri, remarked to this man: "The chair of modern languages in our University is vacant; will you accept it?"

The man to whom this unexpected offer was made, and who soon thereafter received the suggested appointment, was Ignace Hainer. He was a Magyar of gentle birth, had received a liberal education, and had been admitted to the bar in his native country. Between those college days in Hungary and the November morning when he drove his ox-team into Princeton, there lay a period of exciting experiences. At the time when Hainer was admitted to the bar, Kossuth was already the idol of young Hungary. He had tried to show clearly to his countrymen the method of Austria's increasing oppression by publishing a periodical called *The Report of the Diet,* which contained the speeches and proceedings of the national assembly of Hungary. When these printed reports were condemned by the Aus-

trian censors of the press, he had, with the assistance of copyists, circulated the proceedings of the Diet in manuscript form.[31] He had been imprisoned and liberated again, and when Ignace Hainer entered upon his professional career, Kossuth through his paper, *The Pesti Hirlap,* was thundering his denunciations of Austria's perjured monarchs, and calling upon Hungary to defend her constitutional liberties.

Hainer soon became one of Kossuth's most enthusiastic assistants in publishing and circulating the *Hirlap,* and naturally came into prominence when the revolution began. In 1848 he was chosen a member of the staff of General Count Casimir Batthyányi, a representative of an old and distinguished family of Hungarian nobility. Later Hainer was appointed Adjutant General under Batthyányi, and when Batthyányi was made Secretary of State under the Kossuth provisional government, Hainer was appointed his secretary. When the Hungarian cause was lost, Batthyányi escaped to France, and many of Hainer's associates were either imprisoned in the fortresses of Hungary or condemned to death, but by reason of a singular clerical error, he escaped punishment. After the close of the war, he resumed the practice of law until 1854, when a royal edict decreed that all court pleadings both oral and written should, thereafter, be made in German instead of in Latin. Though thoroughly familiar with the German language, Hainer became indignant at this arbitrary ruling, gave up his law practice and came to America. He located in Chicago, where he met with financial reverses, and during the following year he set out with his family to join his countrymen at New Buda.

He had selected his land, had built his log cabin, and had entered upon his hitherto untried career as a farmer when

[31] De Puy's *Kossuth and his Generals,* pp. 135, 136.

he was called to the more congenial life at Columbia, Missouri. He retained his position at the University for four years, or until the summer of 1860, when he and several other professors were dismissed on account of their anti-slavery sentiments. A few months later, the call of 1861 took the young men from college halls to southern battle-fields, and for four years the University was practically closed.

Mr. Hainer then returned to his farm, but the New Buda of Count Ujházy's time was passing away. He replaced his log cabin by a typical Iowa farm-house, and there he spent the greater part of the remaining thirty years of his life, reading his beloved Latin and modern classics and educating his children, four of whom were graduates of the Iowa Agricultural College at Ames. His sons developed the father's preference for the law. One was admitted to the bar in Nebraska, and from 1893 to 1897 was a representative in Congress from that State. Another was one of the early settlers of Oklahoma and was for several years a federal judge of the Territory. The third son was for several years professor of physics at Ames, but later was admitted to the bar in St. Louis. Mr. Hainer's youngest daughter was graduated from Ames and afterwards became the wife of one of the professors in that institution.

Mr. Hainer visited Hungary and Europe twice, once in 1880 and again in 1885. Although he took no active part in politics, he was often elected to minor official positions, and was for several years postmaster at New Buda.

STEPHEN RADNICH

Among the Austrian prisoners of war in the fall of 1849 was a boy less than eighteen years of age. He had come from one of the Danube counties, and had served in the heavy artillery under Hungary's Polish ally, the famous General Bem. His two elder brothers were in prominent

army positions in different parts of the kingdom. The detachment to which this young man belonged had been captured by the Russians and delivered by them to the Austrians.

The prisoners were not guarded very rigorously, however, for one day the young man with six others escaped from the house where they were quartered. A company of infantry was marching down the street on its way to the District Court rooms to receive orders for rations. Mingling with the crowd in the street, the escaped prisoners succeeded in entering the court room unobserved. The judge, an unwilling servant of Austria, was an uncle of the young man from the Danube. When he could do so without attracting attention, the young man explained his situation to his uncle and asked for a passport for himself and his comrades. The uncle explained that he could not prepare a regular passport without danger of detection by persons who might be spying upon him. But the tie of blood was too strong to be ignored, even at Austria's command. Handing his nephew a blank form, the judge instructed him to insert his own name and the names of his comrades. This done, the judge signed the paper, and explained to his nephew that it had no legal value, but that it would doubtless be readily accepted by friendly guards and under-officers in the army, and that it might also serve to deceive ignorant sentinels.

Acting upon his uncle's advice, the young man and his friends waited until nightfall to make further efforts to escape. They started out just after sunset, and had almost reached the highway leading from the town to the open country when they were stopped by a sentinel who refused to look at their alleged passport, and probably could not have read it had he done so. Arguments and persuasions were alike unavailing. He was an Austrian sentinel and his

sympathies were with Austria. It was his duty to prevent any one from leaving the town, and it was evident that he proposed to discharge his duty. As a last resort, one of the patriots, a stalwart young fellow, sprang upon the sentinel, who at once shouted for help. The situation was serious. His outcry would soon have attracted the attention of a detachment of cavalry guarding that part of the town. A few moments' delay meant recapture and punishment for the young patriots. The penalty for trying to escape and for assaulting a sentinel would, no doubt, be death. It was war; the sentinel was their enemy; it was their life or his. They took the natural alternative. A few moments later they were on their way to the mountains, leaving behind them a sentinel asleep at his post, but no Austrian court martial would ever bring him to trial.

When the death of the sentinel was discovered, a detachment of cavalry was sent to recapture the fugitives. Perhaps the pursuit was not a very determined one. At any rate, the young men, hungry and ragged, succeeded in reaching the mountains, and were given food and shelter by the hardy, loyal mountaineers. Pushing over the mountains, they came to a stream across which was a bridge guarded by a detachment of Austrian cavalry. The fishermen along the banks dared not row the young men across. After a delay of two or three days, the fugitives decided upon a bold movement. Relying upon the fact that many officers as well as soldiers in the Austrian army were in sympathy with Hungary and had been impressed into the Austrian service, they determined to make an effort to cross the bridge. They reckoned well, so far as the first officer was concerned, for the guard at the bridge readily accepted the supposed passport. At that moment, however, a superior officer approached and demanded the passport. He sternly accused the young men of being fugitives, and con-

ducted them a little distance away for further examination. When alone with them his manner changed. He was a Hungarian who had been forced into the Austrian service. Briefly, but very explicitly, he instructed the young men how to reach a convenient town on their way to the Danube, and told them of a butcher to whom they might apply for help. Just as they were leaving, he slipped two silver pieces into the hand of the young man from the Danube.

With the friendly help of the butcher, whom they easily found, and by virtue of the extreme leniency of a Russian commander through whose lines they were obliged to pass, the fugitives escaped from immediate danger; and within one month after beginning his flight the young man from the Danube reached his uncle's home at Arcsen, one of the Danube towns. But escaping from a military prison and killing a sentinel were offenses which the Austrian government was not likely to pass over lightly. A cavalry company was stationed at Arcsen and the uncle's premises were under surveillance, so the nephew was obliged to keep himself concealed. At length, influential friends succeeded in securing for him a passport to America, and one day, evading the soldiers who were guarding his uncle's residence, he made his way to the river and boarded a passing barge. Danube bargemen were used to receiving such passengers, and this one accommodatingly hid the fugitive in his own quarters under the cargo of hay. A few weeks later, the young man arrived in Glasgow, and with twenty-four other refugees was given free passage to America by the Glasgow ship-owners.

This is the story told one summer day in the living room of a large, white farm-house, a few miles from the old New Buda settlement. It was told by a gentle-voiced old man whose shoulders were stooped with the weight of more than

eighty years; but his brown hair and beard were only slightly streaked with gray. His blue eyes were clear and bright, and they twinkled merrily as he related his adventure with the Austrian officer at the bridge, or described his hay-barge journey on the Danube. This was Stephen Radnich, the last survivor of the New Buda group of patriots.[32]

For eleven years after arriving in America he tried his fortunes in Little Rock, in Louisville, Kentucky, and in Davenport, Iowa; and then, in the latter part of 1861, joined his compatriots at New Buda. He entered his quarter-section of land and built his log cabin, to which, a year or so later, he brought his bride, the eldest daughter of Ignace Hainer. In a few years, the log cabin gave place to the white farm-house, and other land was added to the original quarter-section, for Stephen Radnich was one of the few successful farmers of the New Buda community. His wife (Laura Hainer) died leaving two little children, and a few years later he married the daughter of an American family.

For more than fifty years he occupied his homestead, living a quiet, prosperous life. There his children were born and have gone out, thorough American citizens, to establish homes of their own; and there, since these chapters were begun, he departed this life.

At one time and another, there were in the New Buda settlement probably thirty or forty of the exiled patriots, but those whose careers are sketched in the foregoing chapters, were the ones prominent in the history of the settlement, either by reason of the part they took in its establishment, or because of their long residence in its immediate vicinity. They are also representative types of the men, who, by the ill-fated revolution of 1848, were Hungary's loss and America's gain.

32 The story as related above was told by Mr. Radnich to the writer of this paper.

AUSTRIAN FEAR OF HUNGARIAN EXILES

An ordinary American settlement in the early fifties was probably a matter of the least possible concern to an European autocrat, and certainly not one calculated to arouse his suspicions. But New Buda was not an ordinary settlement, and its founders, for a few years at least, were the source of no little anxiety to the Austrian government. Moreover, the friendly attitude of the United States did not tend to allay the fears of the court at Vienna; and as a result, an American tourist in the years immediately following the Hungarian revolution received, at best, but scanty welcome at the hands of Austrian officials. If he happened to admit having any knowledge of Count Ujházy or his settlement, the consequences, according to Charles Loring Brace's account of his own experiences, were likely to be extremely embarrassing.[33]

Soon after the Hungarian revolution, Mr. Brace visited Hungary for the purpose of obtaining, for publication, accurate information regarding the country, its people, and its institutions. One day in June, 1851, while dining with a Hungarian professor at a hotel in Gros Wardein, an Austrian military station in Hungary, Mr. Brace's host made a casual inquiry regarding "Ujházy and his Hungarian colony in America." Having no acquaintance with Ujházy, Mr. Brace could only reply in a general way that the colonists were in a good locality, but like all immigrants had to work pretty hard; and added that Count Ujházy was much respected in America.

As there were two strange men at the table, Mr. Brace was particularly guarded in his remarks, but his caution was of no avail. The two strangers, as he afterwards learned, were members of the Austrian secret police, and the following day Mr. Brace was arrested and formally

[33] Brace's *Hungary in 1851.*

accused of being an agent of Ujházy and other exiled patriots, and of coming to Hungary for the purpose of "spreading revolutionary movements". In vain he protested that he had never spoken to Ujházy, nor had any communication with him. He was imprisoned, and day after day was questioned regarding his "correspondence" and "agreement" with Ujházy. After thirty days of exceedingly disagreeable prison life, Mr. Brace was liberated, but only through the intervention of the American Chargé d'Affaires at Vienna.

Two years after Mr. Brace's unpleasant experience, another episode occurred which was even more closely connected with the New Buda settlement, and one which assumed the importance of an international affair.

About 1851, Martin Koszta, one of the patriots who had fled to Turkey to Kossuth, came to America, declared his intentions of becoming a citizen of the United States, and afterwards went to New Buda. In the meantime, he returned to Turkey to attend to some business matters of a purely personal nature. On June 28th, 1853, while waiting in Smyrna for an opportunity to sail for America, he was seized and taken on board an Austrian war vessel. The United States corvette, "St. Louis", happened at that time to be in the port at Smyrna, and the commander, Captain Ingraham, learning that Koszta was entitled to the protection of the United States, demanded his release. The Austrian commander refused. The contention between the two commanders, and also between the consuls of the two governments continued until July 2nd, when Captain Ingraham, learning that the Austrian commander was secretly arranging to send Koszta to Austria, peremptorily demanded his release by 4 o'clock that afternoon. The Austrian commander still refused, and both vessels cleared their decks for action; but actual hostilities were prevented

by the consuls of the two governments agreeing that Koszta should be delivered to the French consul, who consented to take charge of him, pending the adjustment of the affair between the government of the United States and that of Austria.

During the following August and September, a considerable amount of correspondence passed between the Vienna cabinet and the State Department at Washington. The Secretary of State defended the action of Captain Ingraham, and maintained Koszta's claim to the protection of the United States.[34] As a result, Koszta was released unconditionally on October 25th, and the same day took passage on an American steamer for Boston. The position taken by the United States in this case has been adhered to ever since, and the "Koszta Case" established a precedent in international law.

So intense was the feeling aroused in the United States by this incident that the *New York Tribune* declared that "regardless of his politics, had Capt. Ingraham sunk the Austrian vessel, he would have been the next president of the United States"; and the *Examiner* of September 3rd, commenting on this assertion, claimed that the *Tribune* had not exaggerated popular sentiment. The interest in the affair was so general that President Pierce in his annual message, on December 5th, 1853, gave a somewhat detailed account, closing with the statement that "He [Koszta] has been released, and is now in the United States."

LIFE OF THE EXILES AT NEW BUDA

While the Austrian emperor and his officers were suffering alarm at the mere mention of Ujházy's name, and while Martin Koszta was the subject of correspondence between the cabinets of the United States and Austria, the New Buda settlers in their log cabins were watching with keen interest

[34] Moore's *Digest of International Law*, Vol. III, contains this correspondence, together with a detailed account of the episode.

the affairs of nations. They were in constant correspondence with Kossuth, who for many years after the revolution, still cherished the hope of establishing a republican form of government in Hungary. To the last hour of their lives, the New Buda founders were patriots of Kossuth's type, and had Hungary again undertaken to realize his hopes, it is possible that their activities might have fully justified Austria's fears. But no such uprising occurred, and the exiles adapted themselves as best they could to conditions in America. A phase of their life in the settlement is described in personal letters written by a son of one of the patriots. Among other things, he says:

> Nearly all these Hungarians were educated, cultured men. They dearly loved the old classics and talked much of world politics and dreamed of Utopian conditions. Even in those early days when mails were very infrequent, they were subscribers to standard periodicals in both Europe and America. With the coming of the postman, supposedly once a week, they gathered and held many interesting conferences. These were usually had at the home of Col. George Pomutz [formerly Ujházy's log castle] who occupied what seemed a palatial mansion consisting of four rooms, each about twenty feet square, forming a row with doors opening between. The Colonel had a large globe, and also many maps which were displayed on the walls. In their discussions they paid great heed to the character of the peoples of the world, their religion, their customs, and traditions, and to the productions of the various countries.
>
> It was my good fortune to attend these conferences with my father, and though but a small boy, became greatly interested in the discussions. I recall distinctly that the correspondence between Secretary Chase and Mr. Madarász was gone over at these meetings and very fully discussed. These men also corresponded regularly with such men as Horace Greeley, Edward Everett, Lloyd Garrison, Wendell Phillips, Owen Lovejoy, and others who were in the fore front of public and advanced thought. To listen to their discussions was in itself a liberal education.[35]

[35] Personal letter written by Mr. E. J. Hainer of Lincoln, Nebraska.

As a permanent settlement, however, New Buda was not a success. Its founders, as a rule, were exceedingly impractical and lacked the qualities necessary for developing the resources of a new country. They were statesmen and scholars, but not pioneer farmers; and their crude attempts at agriculture, such as gathering their corn by leaving their teams outside the field, and carrying the corn in sacks and emptying it into the wagons, were sources of amusement to their American neighbors. The population of the settlement, never perhaps more than seventy-five persons, was always to some extent a shifting one, and gradually even those who acquired title to their land disposed of their holdings and removed to cities or towns or to other farming localities.

When the township organization in Decatur County was completed, the civil township in which the settlement was located was called New Buda; and this alone perpetuates the name, for the postoffice was discontinued many years ago, and no trace remains of the original settlement. Its founders one by one have passed away, but perhaps the spirit of their larger hopes hovered over the southern Iowa prairie; for with the passing of their little settlement another people, skilled in the ways of agriculture — a peculiar people with a genius for organization — came in to occupy a portion of the land of New Buda and its neighboring township. A few miles from the old New Buda postoffice they have built for themselves a town with broad streets, with banks, philanthropic institutions, and schools; with a college and a publishing house and a temple of strange architecture. In their own practical way, they have realized the dreams of Count Ujházy; but their story belongs to another chapter in the history of New Buda.

LILLIAN MAY WILSON

CHICAGO, ILLINOIS

OLD FORT MADISON: SOME SOURCE MATERIALS

[While engaged in collecting data relative to the history of old Fort Madison, Mr. Jacob Van der Zee happened upon some interesting source materials. The "Personal Narrative" which follows was found in the *Michigan Pioneer Collections,* Vol. VIII, pp. 662–669, and Vol. XII, pp. 438–450, and is here reprinted with the kind permission of the officers of the Pioneer and Historical Society of Michigan.[1] The explanatory footnotes and references were prepared by Mr. Van der Zee.— EDITOR.]

A PERSONAL NARRATIVE
[Authorship not given]

I was appointed sutler[2] to a company of troops commanded by Alpha Kinsley,[3] 1st regiment, U. S. Infantry, sent to establish a trading post, and for the protection of public goods, a site for a fort and trading post[4] was selected by Lieut. Kinsley & Mr. J. W. Johnson, U. S. F.[5] Nine miles above Rapid des Moine a stockade was thrown up of small pickets, 5 feet high; the winter quarters for the

1 The narrative which follows is one of many evidences which go to refute the assertion that the only government factory for the Indian trade west of the Mississippi River was established at Fort Osage (Fort Clark) in Missouri. See, for instance, Chittenden's *The History of the American Fur Trade of the Far West,* pp. 628, 948.

2 A sutler is a person who sells provisions, liquor, and the like to the troops of a military establishment — he is the keeper of the canteen.

3 Alpha Kingsley of Vermont became successively Ensign of the First Infantry, Second Lieutenant in 1805, First Lieutenant in 1808, and Captain in January, 1813, and was honorably discharged in the year 1815.

4 A treaty with the Sac and Fox Indians in 1804 provided for this government factory, but contained no stipulation with regard to the building of a fort or the presence of troops at this place. For a detailed account of old Fort Madison see *Annals of Iowa* (Third Series), Vol. III, pp. 97–110.

5 John W. Johnson was a native of Maryland. *American State Papers, Indian Affairs,* Vol. II, pp. 39, 44, 49, 53, 55–61, contains Johnson's annual accounts "of the trade carried on at the United States trading-house at Des Moines" from March 31, 1811 to April 1, 1815. Fort Madison came to an end in the month of September, 1813, when the troops set fire to all the buildings

company, which consisted of about 50 men besides the officers, formed the rear of the stockade; the barracks were low (but one story); there were two gates, one in front, next the river and a small gate opened in the rear towards the woods. The factory store, built by the troops, was erected near the gate on the right & a sutler store on the left of the back gate. A sentry was posted night and day at this gate, outside, where he could observe all that passed at the factory as well as at the sutler's store. By the first of September of that year[6] Mr. Johnson was ready to commence trading with the Indians. His trade was principally confined to the post, with the Sacs and Foxes & Iowas. Positive instructions was given to Mr. Johnson as well as to all factors, for the Government had established trading houses as early as 1805 at Detroit, Chicago, Fort Wayne, Green Bay, Osage, Belle Fontaine on the Missouri and many other points; the object of which was to afford the Indian's goods a small profit, merely to cover all expenses. At that time the Mississippi country was filled with British traders who sold goods at high prices. Their goods were of the very best quality, manufactured expressly

and escaped from besieging Indians. If Johnson, therefore, continued to act as the government agent of "Des Moines trading-house", he must have carried on operations outside of the Iowa country. It is believed that Johnson set up the "Des Moines factory" in or near St. Louis, at least within the protection of the American lines, for until 1816 no American was safe from the British and their Sac and Winnebago allies in the Upper Mississippi Valley.

Johnson's Des Moines trading-house showed a gain of $12,739.88 in the four years' trade: only the Osage trading-house, west of St. Louis, showed a larger balance. During this period Johnson drew $1,460 as subsistence money, while his assistants Asa Payne and Robert B. Belt received $564.

In the spring of 1816 Johnson was sent to Prairie du Chien where Fort Crawford and a government factory had been set up a few months before. In 1818 he was chosen judge of the county court of Crawford, and remained in charge of the post until the close of the government factory system in 1822, when he removed to St. Louis. He served as mayor of the city from 1833 to 1835. For references to John W. Johnson see *Wisconsin Historical Collections,* Vol. XIX, pp. 383, 386, 387; and *Annals of Iowa,* Vol. VII, p. 144.

[6] This was in 1808.

for the Indian trade. Their rifles were just what the Indian required & the powder of the very best quality; whereas the goods sent to the American factors were of a very inferior quality, in fact, it would seem that all the old goods of all our cities were bought up as good enough for wild Indians. At first the goods were laughed at, ridiculed by the Indians. The leading articles of trade, such as blankets, cloths, powder, rifles, &c., were miserable. The blankets were small and thin, weighing but half the weight of an English trader's blanket; the cloths also were this and worse, so narrow that two yards would not make a match-i-co-ta for a squaw and the calico would not, from age, hold together. The traps were good for nothing; the springs would break but the government furnished a blacksmith under charge of Mr. Johnson, the factor, who mended their traps, axes, kettles, guns, &c., &c. The article of traps from their bad quality greatly disappointed those who bought them for they always had new springs to make; in fact the goods were badly laid in for the Indian trade. The factors were constantly complaining of the quality of goods sent them.

The British traders made a handle of it and the Indians became dissatisfied with their father, the President, for sending goods so inferior to those brought by their old traders. Some years elapsed before better goods were furnished. In the meantime British traders exerted themselves to poison the minds of the Sacks and Foxes against the new traders and the Big Knives.

Black Hawk[7] was then a young chief of great influence with the braves of the Sacks and Foxes. He possessed a daring and restless spirit. The old British traders worked so effectually on the feelings of the Indians that they were determined to attack the troops sent for the protection of the publick goods and rob the factory store.

[7] Black Hawk, the famous Indian brave, whose name was given to the brief Indian campaign of 1832 in western Illinois ending in his defeat.

All traders were in the habit of making credits to the Indians; each chief accountable for each individual in his band; the chief was in all cases present when the trader made his credits and as he knew who was a good hunter and who was not, he dictated the amount to be credited to each individual of his band. The credits were always made in the fall and paid after the Indians had made their winter hunts.

Some bands of the Sacks took credit at the U. S. Factory in the fall of 1808. No matter how inferior an article, if the Indian can obtain it on a credit he will take it.

Owing to bad counsels the Indians made that year poor hunts. They kept in a body and counseled among themselves the best manner of surprising Fort Madison or rather the temporary stockade before the new fort could be occupied. They knew the new fort could not be occupied before the following summer, the soldiers hauled all the pickets and timber in the winter, hitched to sleds, 10 or 15 men to a sled, for want of horses or oxen.

Whilst they were thus occupied the Indians were debating on the best mode of attack, several head men and warriors spoke in counsel, each submitting his favorite mode of attack. They kept themselves posted up in regard to the progress of the new fort which was to be of picket work and block houses. The pickets were to be about fifteen feet high and sharpened at the top. The month of May was decided upon as the time for attacking the troops and kill every man if they could. The whole nation left their summer village in the fall, and in canoes with their families, descended the Mississippi river some 250 miles to their usual wintering grounds, at or near Wa-con-daw Prairie, and about fifty miles below Fort Madison, where game was much more plenty. Whilst the young men were employed in hunting, the wise men of the nation were submitting

their plans for an attack, as they should pass up the river in the spring to their summer village, where they usually make their corn. Sometime in February, a young Iowa made his Detroit friend, the Sutler, a visit, the object of which was to inform him that the old Sack chiefs had no control of the young men; that they were occupied all winter in holding councils among themselves and were determined on mischief; that they had sent wampum to the Iowas, who would not join them in a body, but that a few individuals who had intermarried with the Sack women would and that a general massacre of the Whites was determined upon to be carried in effect in the spring.

Black Hawk, or Muck-et-e-me-shuck, was selected as the leader of the warriors. Pash-e-pi-ho,[8] or Stabbing Chief, was to be second in command. To settle on the mode of attack was then to be determined on. Several plans were proposed in general council. The Plumb chief proposed to make the attack when the troops were engaged in raising block houses for the new fort, when the soldiers would be scattered; some hauling timber for pickets, and others chopping and getting out timber for the block houses and barracks, leaving only six men on guard. Had the Plumb chief's plan been adopted, and all their plans kept a secret, the garrison must have fallen and the factory goods lost to the United States.

Pash-e-pi-ho proposed to fire the barracks, or soldiers' quarters, at night, scale the stockade and put every one to death.

Black Hawk's plan prevailed; the attempt was made and he was disappointed. (See life of Black Hawk.)

The second visit of my Iowa friend was in May, 1809, a few hours previous four hundred canoes with all the Sack

8 The head chief of the Sacs at the beginning of the nineteenth century. He was the leader of the five chiefs who negotiated the treaty of 1804, ceding all lands east of the Mississippi River.

nation. According to promise he came to my store. I was alone; it was early in the day; he appeared very much excited; told me that the Sacks were near and urged my departure that day; he informed me that he had been at all their councils and that they would send word to Mr. Johnson that they were coming to pay their credits and trade; that they fetch their women and children; that their plans might not be detected, or more fully to put the troops off their guard. About nine o'clock the Indians came in sight on the opposite side of the river and encamped. Soon a canoe put off with a message to the trader to be ready to receive his credits, after which they would trade; that they were anxious to reach their summer homes and to plant their corn. Band after band paid up their credits and traded, the chief of each band sitting on the counter hurrying them on. About three o'clock the trading was over. Pash-e-pi-ho, in person, asked to be admitted within the stockade, accompanied by an interpreter. He told Lieut. Kingsley that his young men had paid all their credits and wished to give him a dance inside the stockade as it was stumpy outside and would hurt his young men's feet. The commanding officer gave him to understand that his request could not be complied with and said if they wished to dance that they could go over to their trader, Mr. Johnson, and see them dance. The dancing party soon became uneasy and struck up on the drum, getting in as compact a body as they possibly could and soon moved round to the front gate. There a sentinel was posted and was compelled to come to a charge with his bayonet. The commanding officer who stood near a six-pounder and a soldier with a lighted port fire, was all that was exposed to view. Beside the interpreter stood the commanding officer and Pash-e-pi-ho urging the commanding officer to permit the Indians to enter the stockade. The chief had his knife in his hand carelessly

cutting tobacco as I jumped from my store over the picket work.

The officer, instead of detailing his men for fatigue or suffering them to be scattered about as usual at their work, ordered them under arms. The soldiers' quarters formed the rear of the stockade of about one acre of ground. The six pounder stood within twenty feet of the barracks, directly fronting the gate, loaded with balls. Near the cannon stood a man with port fire in hand, waiting for orders. I looked towards the barracks, bayonets bristled through the doors and windows. Black Hawk was in front; about ten Indians filled up the gateway; those in front, from the pressure of those in the rear, anxious to gain admittance within, were bent forward; the sentinel at the gate stood at a charge with his bayonet. The Indian directly in his front leaning with his nose nearly touching the sentinel's musquet. In a moment I expected the affray would commence. The guard was doubled at the guard house. Within three feet of the sentinel, waiting the discharge of the six-pounder, the man at the gun swung round the port-fire, expecting every moment orders to apply the match. When Pash-e-pi-ho waved his hand as a signal for a retreat, the Indians came to the right about on their steps, and as they did so every man raised his war club in the air with a tremendous war whoop, disappointed and mad that their plans were discovered. Pash-e-pi-ho was suffered to depart with his men, not, however, without a warning from the commanding officer who told him he had been watched in all his councils during the winter, and in pity towards them they were suffered to go unharmed — the first fire. From the compact manner in which they came up the cannon must have killed one-half of them at the first discharge. The men in the barracks were to have charged to gate. In an instant twelve men in the guard house would have sup-

ported the sentinel whilst they reloaded the cannon. All the talking was through an officer through an interpreter. Pash was told the moment an Indian stepped over the gate-sill he would be fired on. Every man stood ready, for it was understood that if they forced the sentinel at the gate, it would be the signal to fire the cannon first, but in twenty minutes not an Indian was to be seen on the west side of the river. As the Indians left the factory store the squaws took up their line for the canoes to be out of danger. So certain were they of success that the women brought with them their pack ropes to tie up the factory goods. Once in the stockade, they had confidently expected the troops would have gathered round them as they danced, and they were, at a signal from Pash-e-pi-ho, to have used the war club and knife. The knife which he had in his hand, cutting tobacco with, he intended for the commanding officer, Lieut. Kingsley. This chief was one of the most successful warriors in the nation, had killed in battle with his own hand fifteen of their enemies. He had carefully preserved their scalps until his death, which occurred a short time since in crossing a river when drunk. He fell out of his canoe and was drowned. The night of the failure, fifty canoes, with Black Hawk, left their camp on a war party against the Osages, 300 miles off.

The next day the old chief, Quashquame-nom-wait, the Plumb chief, Pacon-Napope, came over with a white flag and informed Lieut. Kingsley that all the bad young men and young chiefs had gone to war; that they, the old chiefs, could not control these bad men, that they thanked the Great Spirit that the smoke had disappeared & that the sun shone once more & acknowledged that the Black Hawk had great influence over the braves & that they were urged on by bad white men. After the council ended the six pounder was taken out on the bank of the Mississippi and

discharged. The river was calm and balls had a charming effect on the water. Perhaps it might have been the first opportunity they ever had to see a cannon fired with six pounds of leaden bullets in it.

They put their hands to their mouths with an exclamation that that shot would have killed half of them. Had the Indians taken any other mode of attack they must have succeeded. Had they waited until night they could easily have set fire to the barracks and that would have left nothing to prevent them from getting in. They had no block-houses. The new fort was unfinished, the block-houses only half up and the picket work only just begun and one month after the company of men would have defied all the Indians in the country.

I have never met with my Iowa friend since. Report said he was suspected by the Sacks that he acted as a spy for the sutler and was put to death or killed in a drunken frollick. Certain it was that by giving me the name Saginash, (or Englishman)[9] it saved my life years after & from a wish that I would leave the fort when danger threatened, the commanding officer was kept informed of all their movements. Shortly after the failure of the Indians, two companies of militia were sent there, the following summer. Shortly after, in 1808, the embargo was laid and British goods and English traders were not licensed to trade with the Indians unless an American was in some way connected with the business and his name appeared in the licence.

In 1811 (Sep.) a proposition was made to me (I was at that time still a Sutler at Fort Madison) by John W. Johnson, then a Sub. Ind. Agent, as well as U. S. Factor, to take an outfit of Indian goods for the purpose of trading with the Indians, then engaged in working the lead mines

[9] See the letter appended below in footnote 22.

at Toledo Mort[10] (or Dead Head), about eight miles above the mouth of Galena River and about 9 miles below Dubuque. Mr. Johnson informed me that the Sack and Fox Indians had been one year at work & that a good business could be done in lead and fur. He further told me that he considered it his duty to see that the Indians at the mines were supplied with goods; that there were but few goods in the country, such as were necessary for the Indians & offered me goods as many as I wished; if sold to them they were to be accounted for; if not sold, to be returned in the spring. I hired five Frenchmen and two discharged soldiers; the latter to build boats to transport my lead and fur and winter with me after erecting my trading house. I discharged the two Frenchmen, keeping the two Americans and a young half-breed as my interpreter. The Indians called him Pe-peek (or Little Bird). After erecting a store, lead house and fur house, all connected inside with doors, I commenced trading for lead. The Indians had made large quantities during the year and had it all on hand. About the last of September I was prepared to receive their lead & trade commenced in good earnest. From ten to fifteen canoes, carrying 2000 pounds, were at the landing daily. I was kept from morning to night weighing and paying in goods, no opposition within five hundred miles. Lieutenant Prior,[11] formerly of the U. S. Army, was carrying on a smelting furnace. He formerly got his goods from Mackinac until the embargo was laid, and supplies

[10] The correct spelling is probably Tete des Morts, the name of a creek and a township in Jackson County. The mining operations referred to in the story were, of course, confined to the Illinois country.

[11] Nathaniel Pryor of Kentucky accompanied Lewis and Clark on their famous expedition, during the years 1804–1806 — one of the four sergeants, and a comrade, therefore, of Charles Floyd who died and was buried on the present site of Sioux City, Iowa. In the autumn of 1807 Ensign Pryor was placed in command of the party which was to escort back to his people on the upper Missouri the Mandan chief Shahaka whom Lewis and Clark had taken with

through that source were cut off. At this time he had collected of the Indians a large quantity of lead for which he had paid provisions and some goods. I carried on a profitable trade during the fall of 1811 & had made large credits to the Sacks and Foxes for which I was to be paid in fur in the spring. Unfortunately for me the Battle of Tippecanoe[12] was fought and the Indians were defeated. One hundred Winebagos were in that battle; they had been to Malden that summer on a visit to their British Father & on their return stopped at the Prophet's town and in the battle lost 25 men.

After the battle they repaired to their village on Rock River.[13] After resting a while they collected a war party of one hundred men, headed by the Rolling Thunder and soon were joined by a small party under Monges des homme (or Man Eater).

On the 1st January, 1812, they encamped a mile from my trading house. A Sack woman went out early in the morning to procure bark to stretch fur with, and discovered them; perceiving that they were painted for war, she hastened back to inform me. She being encamped near my house, she came to me very much alarmed and said, "Saginash, there is one hundred Winnebagoes a short distance

them to visit President Jefferson. Of this unsuccessful journey see the letters of William Clark and Nathaniel Pryor edited by Elliott Coues in *Annals of Iowa* (Third Series), Vol. I, pp. 613–620.

Pryor rose from the rank of Ensign of the First Regiment of Infantry to Second Lieutenant in 1808; was stationed at Old Fort Madison, Iowa; resigned in 1810; became First Lieutenant in 1813, Captain in 1814, and was honorably discharged in 1815.— Heitman's *Historical Register*. This account of Pryor's career does not tally with that given on pp. 101 and 103, Vol. III, *Annals of Iowa* (Third Series), but is undoubtedly correct. Nathaniel Pryor is mentioned as sub-agent for the Osage Indians in May, 1831.— *Senate Documents*, 23rd Congress, 1st session, Vol. VIII, No. 512, p. 506. For other incidents in Pryor's career see pp. 532, 540, 541, 542, below.

12 Where Governor William H. Harrison, later President of the United States, defeated the Indians.

13 In western Illinois.

back in the woods. Hide your goods. Hide your goods." I shortly after saw her with her mat lodge on her back, making her way down the Mississippi to about two miles below my house. On the river there were ten lodges of her nation encamped for the winter.

Two months had expired since Harrison's battle, yet no notice was given to American citizens and traders, and the first intimation I received of the battle was a war party at my door, yet I had a large amount of publick goods under my charge to sell for the factors at Fort Madison. The Sack lodges consisted of about fifty men. The most of them I credited and they happened to be out trapping when the old woman brought the news to camp of the danger I was in. All then at home, only six in number, armed themselves, but arrived too late to defend me within 100 yards of my store, and it was too late.

Soon after the old woman left me, four Winnebago spies from the war party came to the house past my two men who were getting timber for a flat boat that I expected to use in the spring. They had their guns with them. I took them into the house, placed before them a large bowl of corn and pork. Whilst they were eating they held their guns in their arms. Supposing they only came in to trade and that they had their fur at the camp and came to price my goods as was usually the custom, I offered to take charge of their guns and tomahawk, which was also the custom; but they declined giving them up, as they said they were going right off as soon as they had eaten up what I had placed before them.

[At this point in the *Michigan Pioneer Collections,* Vol. VIII, terminates the unknown author's personal narrative of trading operations in the lead mining region. It will be readily discovered, however, that Volume XII, pp. 438–450, of the same publication contains the remainder of the story under the different and wholly irrelevant title: *G. H. Escape from Five Pottawattomie Indians in 1814.* As a matter of fact, the account, which follows, is a description of G. H.'s escape from the *Winnebago* Indians in *1812.*— EDITOR.]

As soon as the four Winnebago spies, who were sent to my house, had made the necessary inquiry as to the number of Americans who were with me, and had finished their meal, they left. My men were at work within two hundred yards of the house within call. I saw the four Indians stop opposite Arnold & Peters, and, after eyeing them for a few minutes, passed on, I suppose to make their report to the chief of the war party. As soon as I supposed the spies were out of hearing I called the men to the house and informed them that old Shequamy had that morning discovered about one hundred Indians who had encamped about a mile from the house; that they were all painted for war. Whether against us or the Osages, she did not know, but advised me to hide my goods; this was the first of January, 1812. I had a few days previous traded with a party of Winebagoes and I supposed, notwithstanding the old squaw advising me to hide my goods, that it was a party of Indians who came to wish me a happy New Year; still we came to the conclusion that it was best to be on our guard. I told my men that if they wished to leave they might do so, that I had too much property to think of going myself; they looked at each other and then at me. I then told them to go into the store and open two boxes of rifles and a box of fusils and to load all our arms whilst I was employed in knocking out chinking all around the house to use as port-holes to fire out of. I gave a gun to one Duguia, a half-breed Indian hunter, who happened to be at the store that day, trading. He could speak good French, and so long as I thought he was at his post at the corner of the house, the enemy could not approach without his seeing them, and he was to give us notice of the approach of the Indians, come in and bolt the door. He might have seen them three hundred yards off, it being winter. He left his post at sight of some Indians and fled to some Sac Lodges,

two and a half miles below my trading post on the Mississippi, without giving us any notice whatever.

Myself, Pepeck and my two men were in the store loading our rifles, shotguns and pistols (horse-pistols). I had placed two rifles in my room, loaded two pistols with 15 buckshot which I placed in my great coat pocket. Having large capes to my great coat, they were hid from view directly. In rear of my store was my lead house, 20 feet square. A window was out so that as I traded lead it was thrown through this window into the lead house and piled up at our leisure. At this time the lead had been stacked eight feet high and two feet thick all around this lead house except near the window next to the store. This lead house could not be entered except through the store, and it was understood that as a dernier resort we were to occupy it. Guns, pistols and swords were placed there, for we were well supplied with firearms. We had nearly loaded all our guns and prepared to give them a warm reception at 100 yards, when passing from the store to my room, I saw an Indian dog pass the door. From that I stepped out, and to my great surprise, within a few feet of me were fifty Winnebagoes drawn up in line, between my house and store and the river. My buildings were within eight or ten feet of the bank of the Mississippi, so we were completely hemmed in. Their line extended the whole length of my buildings. On seeing me they held out their hands, saying, bon jour Saginas, my New Year's gift.

All my fears for the moment vanished. It had been always customary for large parties of Indians to visit trading posts on that day, and they expected a present of tobacco, &c. My men, who were in the store, hearing the conversation and coming out saw the Indians receive me so cordially, came forward, the Indians shook hands with them, and immediately fell into line, and as I supposed,

were about firing a salute over the houses. Soon the word was given from right, left and center, Ho! Ho! Ho! and every gun was discharged at my men who stood within four feet of me and not over six feet from the muzzles of their guns. They instantly fell, pierced with bullets. Then the scalping commenced, and in a few minutes they were entirely dissected; not a joint was left together, and an old squaw sat on a dead man's legs.

I supposed that I was reserved for a worse fate, perhaps to be tortured or burnt. I drew my horse pistols and presented at a dozen heads. It missed fire. Those in the act of scalping, hearing my pistols, looked up, threw up their hands and said, Certah! Certah! Nicaw Saginash Cow Win Ke Napo. The next moment I was caught in the arms of a Big Winnebago Indian. He raised me from the ground, giving me a shake or two. I was, as it were in a vise. After disarming me, an Indian put his arm affectionately round my neck and led me into the house. The men had locked the store door as they came out. I seated myself so that I could see my store door. After stripping the bones of my poor men and throwing pounds of their flesh against the trees, that it stuck fast, the war chiefs and the braves commenced making speeches, telling what feats they had done. At each speech they struck a joist with a tomahawk directly above my head. I thought at first it was my death warrant, but soon got used to it. About this time I heard the voice of some Sac warriors. Five or six had started from their camps two and a half miles below when Duga, or Old Shequany, made their report to defend me but arrived near the house too late to render me assistance. Waiting awhile they returned. Not seeing me, they asked the Winebagoes where Saginash or the Englishman was. They replied, "What do you want of him?" "We came," said the Sacks, "to invite him to a deer-feast." In return

the Winnebagoes invited the Sacks to stay and feast with them on fresh beef, for they had shot a yoke of oxen that were employed at the smelting furnace owned by Lieut. Nathan Pryor,[14] formerly of the U. S. Army. It was understood that I could not accept the invitation of my Sack friends. It was now about three o'clock in the afternoon.

The war chief wore a large British medal, solid silver. He pointed to it and said that the ribbon that suspended it around his neck was old and dirty and asked me to give him a new ribbon. I did so. During all this time the Sacs were lookers on. Presently the war chief came forward with his war pipe and after making a long speech presented it to the Sac Indians. After lighting it to smoke, they all refused to smoke the pipe which was a deep red color, which they said was a war pipe presented to them by their British father at Malden; that it had been smoked by different nations who had agreed to assist the British in a war soon to commence with the "Big Knives," the Americans. When the Sacks refused to smoke, they passed it to me. Policy said smoke, so I took a few whiffs as an Englishman. The young warriors wanted my goods and looked wishfully towards my store. Very soon one of them, with a single blow of the tomahawk, broke the lock from the door. The nearest thing at hand was a bunch of sleigh bells. As he came out I succeeded in getting them from him. At this moment the head chief seeing that he had broken the lock, tied up the door with a prisoner's belt, at the same time forbidding them from taking the goods. In a short time another attempt was made and I again shut the door. A third time a majority rushed into the store and a general pillage commenced.

They were not satisfied with taking my goods but robbed

[14] See footnote 11.

my trunk of a dozen fine linen shirts which were divided among them as far as they would go. At this time it was dusk. They put on my shirts, walked up and down the room, much pleased with their appearance.

Yet they supposed something might be concealed under the floor of my room, which was of hewed puncheon, laid down, but not nailed. I had about a half barrel of whisky not intended for them. I had buried it under the floor. They soon with a muskrat spear, struck the barrel and it was soon raised. They rejoiced at their good luck and I felt it was all up with me, but it proved the means of my escaping from them, for they soon became intoxicated and paid but little attention to me and Pepeck and I left the house (at dusk) for the Sac and Fox lodges. Some time before leaving I saw the principal chief and told him I would go to the Sack and Fox lodges, as I had been invited to a feast and would return in the morning. To this he would not consent. The whisky began to have its effect and they became merry and soon thought of nothing else. An opportunity soon offered and I was left alone, and I took the opportunity to bid them good bye. Myself and Pepeck soon reached the Sack lodges. The old squaws set up a terrible howling, expecting the Winnebagoes down upon them.

As soon as I entered the first lodge I came to, and my voice was heard, out rolled Duga, the man I had placed as sentinel, from under and behind a parcel of old squaws and saying, Is it possible you are here alive? I was so indignant at his cowardly conduct that I made no reply.

I asked if there was any young man who would guide me down to Fort Madison, promising a horse for his services. I soon obtained a guide, a young Sack Indian named Ka-Sin-Wa, who offered his services. The distance was about 250 miles from my house. They proposed that I should

stay that evening with them and leave for the fort the next morning. I declined their invitation and said I would start immediately. They then furnished me with two blankets, a shot gun, shot pounch powder-horn, two pairs moccasins, and patches to mend my moccasins if necessary and the guide being ready, I bid good-bye to my good friends, the Sacks. Soon after leaving the Sacks, I looked towards my house and observed a bright light. I supposed the Winnebagoes had fired my buildings. We ascertained this to be the fact. The following spring the lead from my buildings was melted in a lump. Having each as many goods as they could pack away, they made a present of my furs to the Sacks and they delivered them to Mr. Johnson in the manner that I had packed them up, the week before I was robbed. The guide who took the lead on our retreat was a young man about 19 or 20 years of age, a son of Shequa-me (who first reported the Winnebagoes near me.) We pursued our way down the river at a rapid rate and had traveled about eight miles when we struck a small creek, well frozen over, and we followed it for some time. I soon saw that this creek, if followed as the guide was doing, would nearly lead us back from whence we came. I communicated my fears to my interpreter, Pepeek, and we came to the conclusion he had repented of his bargain and intended to lead us back to his lodge. Each of us had his gun and Pepeek and I came to the determination that as we were two to one we would stop him and have an understanding about the course he was then leading us. I had determined to compel him to change his course and stopped him. I told him our course was directly towards the moon (that was shining beautifully, there being snow on the ground. It was light as day), that we were taking a wrong direction. He pointed down at his feet saying, "Do you see these turkey tracks?" It was so. "A large flock was going up the creek

in search of water'' said the Indian. ''If they pursue us they will see our tracks in the snow. When they find we are going back they will suppose they are following hunters and will leave our tracks.'' I approved of his plan. We still followed the turkey track. At length the Indian struck his course and continued on all the first night. At daylight we were 50 miles on our way to the fort. Before leaving the bottom lands of the Mississippi our route lay through the large, now called Illinois prairies. Before commencing to cross the first prairies Cashinwa, our guide, struck up a fire and advised us to change our wet moccasins for dry ones. Our route the first night lay through bottom lands and springy grounds and we were wet to the knees. In the morning there was a change in the weather. It became very cold and windy and it was necessary to guard our feet against the frost before leaving our first fire. Our guide with a sharp flint scarified his ankles and legs, as he said it prevented them from swelling, and at this fire we divided between us what provisions we started with. It consisted of one flour-cake baked on a plate. With one third of that and two hind legs of a muskrat we started. I ate the bread but could not swallow the muskrat, neither did I feel hungry. To go back to Sack lodges. When we left, the Sacks dispatched two young men in the contrary direction from that we were pursuing, and when we had a start of 50 miles from our enemies a party of fifteen Winnebagoes arrived at the Sac camps enquiring for the Yankee that had got from them the evening before. They had found out during the night that I was not a Saginash and, tomahawk in hand, they expected to find me at their lodges.

The old Sac chief coolly got up, pointed to the tracks in the snow, saying we had gone up the Mississippi to Prairie du Chien, whilst I had gone down the river to Fort Madison. Once on the prairie I began to inquire if we traveled as

Indian war parties did when they had struck at the Osages. He, the guide, smiled and shook his head. I then told him to take that speed and I would follow him. He drew his belt tight and commenced taking an Indian lope, and in two hours I was satisfied that if pursued, although I had fifty miles the start, I would be overhauled before reaching the fort, for in that time my guide was nearly out of sight. I could just discern him on the prairie. After satisfying curiosity he stopped for us. The first day we saw deer and turkey in plenty but did not fire at them. Towards evening we saw an Indian camp, but proving to be Winnebagoes I did not choose to stop at them. Nothing occurred; we walked all night and the next morning shot under a high bluff a fine fat turkey; the Indian picked it whilst walking. We passed that morning two Winnebago camps; they did not see us, it being early in the morning; they were asleep as we passed. About the middle of the afternoon we stopped and roasted our turkey and ate it all but the hind legs; finished our meal on turkey alone. We left our fire and continued our journey all night. I felt no disposition to sleep. In the morning our Indian and Pepeek shot a pheasant each and we cooked them and that day crossed Rock river at the Sac and Fox village. The village had been deserted in the fall for their hunting grounds. In passing through the village we entered a lodge. Although in the winter, yet the fleas still inhabited at least one of the lodges, for we were instantly covered with them.

We crossed Rock river on the ice early in the day. In the afternoon it clouded up and commenced to snow. This day we traveled through prairies and were fairly into a large one that, but for our guide, we should probably have perished in. The weather in the night became exceedingly cold. After a fall of snow that did not discommode our guide in steering his course in the least, he drew his blanket

over his head, unconcerned. This night, about midnight, I should judge, after crossing the prairie, we came to an old encamping ground. The guide made a halt, said we are not pursued. Had the Winnebagoes got on our trail we should have been overtaken to-day noon; here is plenty of fire-wood, alluding to a frame of lodge poles; we will take an armful each, and go down this sink hole where our light will not be seen, and sleep the balance of the night. We all agreed; we had collected a quantity of dry poles and struck up a fire. We had nothing to eat. I threw myself down by the fire, and Pepeck followed the example; not so the guide; sometime through the day he had picked up a small pumpkin, and roasted it by the fire. When done, he jogged us, saying: "We-sen-na" (eat). After eating up the pumpkin, through the interpreter I ascertained that we were fifty-five miles from Fort Madison. I proposed to Pepeek to leave our fire, and by walking the balance of the night we would be enabled to reach the fort the next day. He readily agreed to it, and the Indian did not object. The weather had become intensely cold; it was calm and star-light; we were furnished each with two good blankets, which we wore Indian fashion, and both of us without hats; our moccasins began to fail us, particularly our guide's. At daylight we were covered with frost. Half a foot of snow on the ground made our traveling rather heavy. About ten o'clock we struck the Mississippi low grounds, and soon we were in thick woods, and soon we came to a gang of Indian ponies. Said the Indian, "We are near lodges," and soon after said, snuffing up his nose, "I smell smoke." "Remain here," said he, "and I will see if they are friends." We had not to wait long. Soon I saw an Indian at a short distance from us. He beckoned to us to come forward; we were soon seated by a comfortable fire in a clean Indian lodge. Over the fire hung a five-pail brass kettle, that appeared clean

and bright, filled with sweet corn and beans, and any quantity of fat deer meat. A clean mat was placed for us to sit on; the squaws came forward and took off our moccasins, dried, rubbed and mended them whilst we were doing justice to a large bowl of corn and venison. Before eating of this, the old man of the lodge poured out about a half pint of clear bear's oil, gave me a couple of Irish potatoes. "After eating that," said he, "eat all you want of corn and meat; it can't hurt you."

My guide remained at this lodge; he had one of his big toes frozen that morning. A young Sac, discovering it, sat immediately down beside him, put his toe in his mouth and sucked out the frost. Query: Would one white man do as much for another? We left well pleased with our reception, at the only Sac lodge we passed on our way to the fort, which we reached at sundown, having traveled on foot 250 miles[15] in three days and four nights. I was not known by Mr. Johnson, whom I found at tea, until I spoke. My Indian blanket and pouch and powder horn were trimmed with buttons, and without hat or shoes, he did not immediately recognize me. This was the 4th of January, 1812.

The day I arrived at Fort Madison, an expressman in a French traineau, had passed the fort. He was sent by Gen. Clark of St. Louis, to apprise the inhabitants of Prairie du Chien of the battle of Tippecanoe. Too late to save the goods I received at Fort Madison of the U. S. Factor, Mr. Johnson, the Winnebagoes who were in that battle, had time to reach the head waters of Rock river, rest one month, raise a war party, and give me the first news of that battle by killing my men, and plundering me of my goods, as well as the goods of the United States factory under my charge.

I had two horses at the fort; one I gave to my guide for his services, and well he deserved it. Mr. Johnson gave

[15] This is probably a record, but see footnote 25.

him a full suit of clothes, also a quantity of silver works. The commanding officer loaded his horse with pork and flour. I have never seen Cashinwa since, though within a few years I made inquiry after him when I was in Iowa. The old squaw, Shequamy, I met at the agency in 1840. I resided at the agency.[16] Whilst there she, the old woman, died. Before she died she called a friend and put in his care four pair of moccasins, telling him to deliver them personally to Saginash. She was mother to Cashinwa. During the war of 1812 there were two parties in the Sac nation, one called the British party, and the other called the American party. The American party moved across the Missouri;[17] the other warred against us on the side of the British. I remained at Fort Madison until the return of Gen. Clark's express from Prairie du Chien, on his return to St. Louis.

In the train was the expressman, Willard; a discharged sergeant, Griffith, and a Mr. Gates, interpreter of Mr. Johnson's, on his way to see his family at St. Louis, and myself on horseback, left the fort; after breakfast made twenty-five miles, and encamped below the river Des Moine; started the next day at daylight. The ice was good, and we traveled from point to point; nothing of importance occurred until about ten o'clock, when we were a few miles from Polier and Bleakley's,[18] two British traders. They attempted to introduce a large quantity of whiskey into the Indian country, but their boats were seized and their liquor stored in the fort by Capt. Harks,[19] who commanded Fort Madison.

16 "Sac and Fox Agency" was then located upon the western frontier on or about the site of the present town of Agency in Wapello County, Iowa. The place was also known for many years as Agency City.

17 These were later known as the Missouri Sacs and Foxes.

18 Toussaint Pothier and Josiah Bleakley.— *Wisconsin Historical Collections*, Vol. XIX, pp. 323, 324.

19 Captain Horatio Starke. See footnote 22.

[At this point there follows an account of incidents which happened before the party reached the first settlement one hundred and fifty miles south of Fort Madison, and of the journey to St. Charles, twenty miles from St. Louis.]

There I remained until spring when an opportunity offered to go to Galena, for the lead which the Winnebagoes could not carry off. They, before leaving my house, set fire to it and melted the lead together. I left St. Louis in May, took passage in a French boat. There were three together and had proceeded fifty or sixty miles above Fort Madison. We met Maurice Blondo[20] from Prairie du Chien. From him we learned that the Winnebagoes were in force at Rock Island. All Frenchmen and French boats were to pass by paying tribute in provisions to enable them to remain there, but they would kill all Americans. The men on board these boats refused to go farther. If I remained on board my going would get them into difficulty. I therefore made up my mind to return to St. Louis. Mr. Blondoe's boat was loaded with packs of fur. He invited me on board his boat, having something curious to show me. On lifting a pack of fur in the center of his boat, who should I see but Lieut. N. Pryor[21] (who was engaged within a few hundred yards of my house at the time I was robbed in melting the lead and whom I supposed was killed at the time by the Indians, but was saved by a squaw who declared he was an Englishman). I was told by Lieut. Pryor that he made a very narrow escape; the Indians drew their knives across his throat, made him open his mouth, looked down his throat to see if he was an American. At length they held a council back of his house whether to kill him or not. Unperceived, the squaw listened; the vote was, he must die. She told Pryor no chance was left to save himself. He jumped for his rifle and left the house. Near by his house was a quantity of drift wood under which he concealed himself and heard the Indians searching for him in the house, uttering savage

[20] Maurice Blondeau, a well-known trader and Indian interpreter at that day.

[21] See footnote 11.

yells. Not finding him they supposed he had gone up the river. In their haste they over-ran his tracks; some even passed over the drift wood under which he had concealed himself. It being a clear moonlight night, he could see them form a line hunting for his tracks in the snow. Pryor followed on behind them as long as they kept near. Not finding his tracks, they wheeled off from the river in search of his track and Pryor, keeping the river, arrived safe at a French village 15 miles from our wintering grounds. There he lived nearly all winter in a cellar, coming out only at night. On account of the Winnebagoes he lost all the lead he had been collecting for one year. Embarking with Blondo and Pryor, we left our French friends and landed that afternoon at a Sac wintering ground of that part of the nation that did not join the British in the war of 1812. Blondo was a sub-agent of the United States; he stopped to deliver a message to them from Gov. Clark, of St. Louis, an invitation for some of the chiefs to visit Washington. We encamped that night on an island, the chiefs setting a guard or spies, lest we should be attacked by some scattering Winnebagoes that might pass.

That afternoon I witnessed a novel ceremony performed on a Sac Indian, no less than dispossessing him of a heavy head of hair by plucking him as we would pick a hen. They commenced by placing a quantity of ashes from our fire in two piles, leaving space for him who they were to operate on between the two piles. An Indian on each side knelt down, placing one hand each on the side of his head and soon every hair was pulled out except on the top, a sort of coxcomb was left and that was fixed with much care and painted with vermillion. All the time of the performance they cracked jokes with the fellow who stood it seemingly without pain, laughed and joked in turn. After they had finished, he jumped up, shook his blanket and walked off,

not without a good dram of whisky from Blondo. This he had performed out of respect for a deceased wife. He was now at liberty to marry again.

The next day we arrived at Fort Madison, from thence to St. Louis.

LETTER FROM JOHNSON TO HOWARD

[It is believed that the following communication[22] to Governor Benjamin Howard reveals the identity of the sutler-author, "G. H.".]

Fort Madison, 7th January, 1812.

Sir:

I am sorry to inform you that, on the 1st instant, a party of Puants,[23] about twenty, arrived at Mr. George Hunt's house, lead mines, &c; killed two Americans, and robbed Hunt of all his goods. Mr. Hunt bearing the name of an Englishman, saved his life; at the same time another party went to Nathan Pryer that was, and killed him;[24] after killing all the Americans there, as they thought, the headman observed, the Americans had killed a great many of their people, and that they intended to kill all they saw.

I expect they went upward, in search of more. Hunt and

[22] *American State Papers, Indian Affairs,* Vol. I, pp. 805, 809.

Captain Horatio Starke also wrote a letter from Fort Madison on January 1, 1812: "Mr. George Hunt has arrived from the mines, and brings the melancholy intelligence that all the Americans at that place have been massacred by the Puants or Winnebago Indians. His life was saved only on the supposition that he was an Englishman."

In *Niles' Weekly Register,* Vol. II, p. 5, under news of the Indian War there is the following bit of news:

"A letter from St. Charles, Louisiana, informs us of some cruel murders committed on certain American traders. The Indians spared the life of Mr. Hunt, son of the late col. Hunt, of the United States army, because they supposed him to be an *Englishman,* but killed the men that were with him. They told him that they had sent a party to kill a Mr. Prior, another trader; that they intended to attack fort Madison, and kill every American they could find."

The Colonel Hunt mentioned here fought throughout the American Revolution and attained his rank as colonel of the First Regiment of U. S. Infantry in 1803. He died in 1808.— Heitman's *Historical Register.*

[23] Another name for the Winnebagoes.

[24] This report seems to be "somewhat exaggerated". See footnote 11.

his interpreter, Vistor Lagotery, arrived here last night.[25] Mr. Hunt, on his way here, was informed by the Foxes, that a large party of Puants had set out for this place. The Foxes showed every disposition to be friends, and promised to save all his goods they could. On the 3d, your express left here a-foot; poor fellow, I fear he will meet the Puants. Yesterday the express left here, with M. John McRae, for St. Louis, with many letters and public papers. Will you do me the favor to show this letter to General William Clark,[26] and ask to write General Mason, informing him the goods I furnished Hunt, are all lost? Every hour I look for a war party, and God only knows when it will end.

I hope you will cause immediate relief, by increasing our number of men at this post.

In haste, I am your very humble servant,

JOHN JOHNSON.

His Excellency Governor B. Howard, St. Louis.

ATTACK ON FORT MADISON

[The attack on the few Americans then dwelling at the mines and at Fort Madison (sometimes called Fort Belle-Vue) constitutes an episode in Iowa history and an incident in the larger history of the War of 1812 in the West. The British aided by their Indian allies proved too much for the Americans, although the latter made a gallant defence as reported by a contemporaneous newspaper. — EDITOR.]

St. Louis, September 26.

The following account of the attack on Fort Belle-Vue, was handed to us by a friend who was at that post during

[25] If this is true, George Hunt made the journey from the lead mines to Fort Madison in six days, which sounds more reasonable than his own statement.

[26] On January 12, 1812, General Clark wrote that he had just heard "by an express, from the commanding officer at Fort Madison, to Colonel Bissell, that a party of Winnebagoes, (part of the Prophet's party) did, on the 1st instant, rob and *kill* several American traders, near the Spanish mines, on the Mississippi." On March 15, 1812, he received another express informing him "that, on the 3d instant, a war party of five Winnebagoes, killed one of the corporals of that post, a short distance from the fort." In a postscript to another letter he wrote: "Mr. Payne arrived from fort Madison, by whom I received letters, mentioning that, on the night of the 29th of March, the Puants

the siege. The position is one of the most ineligible on the Mississippi for a place of defence: as from an eminence their parade ground could be swept by small arms, and it is almost surrounded by chasms to within ten or twelve steps of the pickets and block-houses, from whence the Indians threw upwards of 500 pieces of burning timber on the roofs of the houses; and when the attack commenced there was no spot about the fort that did not emit a continued sheet of fire from guns, fiery arrows and brands, and did not afford the brave fellows within an opportunity of doing much execution, except now and then knocking over such *red skins* as had the impudence to peep over the bank. Lieutenants Hamilton and Vasques have done themselves much credit in defence of the post committed to their care.

ATTACK ON FORT BELLE-VUE

Sept. 16th, 1812.— On the 5th inst. at half past 5 *P. M.* this garrison was attacked by a party of Winabagoes, the number not precisely known, but supposed to be upwards of 200. Fortunately, there was only one soldier out of the garrison (John Cox) who fell a victim to the scalping knife. A constant firing on both sides were kept up until dark; early next morning they commenced again, and about 7 o'clock they set fire to a Mr. Graham's boat and loading, this man arrived on the 4th, they also burnt two boats belonging to the public; soon after they began to throw fire on the block-houses that stood near the bank of the river but not sufficiently near as to command the space between them and the river, syringes being made of gun barrels, the roofs were wet so as to prevent fire taking; during this time part of them killed the live stock, plundered and burnt Mr.

or Winnebagoes shot a sentinel at that place; on the 3d instant, one of the sentinels at that post shot and killed a Puant at the gate. During the night, several shots were fired at the fort, by the Winnebagoes. Small parties are continually about the fort.''— *American State Papers, Indian Affairs,* Vol. I, pp. 806, 807.

Julian's houses, destroying the corn, and on the 7th they continued throwing fire on the block-houses and shot arrows in the roofs with matches tied to them.

The morning being calm all their fire attempts on the block houses proved useless. In the evening they burnt Mr. M'Nabb's house and attempted the smith shop, and it was generally believed they were only waiting for a favorable wind to burn the factory, so that it might catch the garrison, which would have been the certain means of destroying us all, to prevent that, as the evening was very calm, the commanding officer, Thomas Hamilton, despatched a soldier with fire to the factory; and in less than 3 hours that building was consumed without any danger to the garrison — during this day several Indians crept into an old stable and commenced shooting out of it, but a shot from the cannon by lt. B. Vasques, soon made their yellow jackets fly.

On the 8th we heard but little from them; several canoes were seen crossing the river, and on the 9th not an Indian was to be seen or gun fired. I am happy to say no lives were lost in the fort, one man was slightly wounded in the nose. The Indians must have had many killed, as several of them were seen to fall.[27]

[27] Niles' *The Weekly Register,* October 31, 1812, Vol. III, p. 142. This article is reprinted in *Annals of Iowa* (Third Series), Vol. III, p. 104.

The Indians made things so hot in the month of September, 1813, that the half-starved garrison escaped down the Mississippi in boats after setting fire to the buildings. For many years, indeed until the pioneers entered the country in 1833 to make permanent settlements, the ruins of two tall chimneys stood sentinel-like upon the Iowa shore of the Mississippi — silent reminders to passers-by of a former habitation and a monument to the government's attempt and failure to win the Indians by means of military posts and trading establishments.

THE WORK OF THE THIRTY-FIFTH GENERAL ASSEMBLY OF IOWA

If the declarations of the press of the country are to be taken seriously the assembling of a State legislature is usually regarded as something of a public calamity, and its adjournment is always greeted with sighs of relief. Just why our State legislatures are looked upon with suspicion and contempt and their acts derided and ridiculed is not altogether clear to the average citizen. Nor do the critics offer an adequate explanation. To some this persistent criticism of the legislature is positive evidence of the failure of popular government. With others, however, the belief in popular government remains unshaken; and they diligently seek to discover the causes of unsatisfactory legislation and propose such remedies as the initiative and the referendum, legislative reference bureaus, and the expert drafting of bills.

At the Conference of State Governors, recently held at Colorado Springs, Governor O'Neal of Alabama delivered an address on *The Distrust of State Legislatures* in which he declared that State legislatures have become more corrupt and more incompetent as they have been increasingly deprived of power and responsibility. As a remedy he advocated more frequent sessions of the legislature and better pay for the legislators. Again, he declared that "one of the strongest objections to our legislatures as now constituted is that the members represent only localities and are more concerned in promoting local legislation than in enacting necessary laws for the state at large"; and he urged that the size of the law-making body be materially

decreased and that a certain proportion of its members be elected at large. The lack of a central, responsible authority in State government should, in the opinion of Governor O'Neal, be supplied by increasing the powers and duties of the chief executive.

Others have pointed out that while we insist upon increasingly higher qualifications for the doctor, the lawyer, the dentist, and the engineer, we still cling to the belief that any citizen twenty-one years of age, of sound mind, and unconvicted of crime is qualified to become a law-maker.

It is well known that the General Assemblies of Iowa have not escaped sharp criticism and ridicule from the press and from the people. As a rule at the opening of each session there has been expressed no little apprehension and misgiving; and adjournment usually brings from the press the consoling observation that "it might have been worse". The Thirty-fourth General Assembly in particular was criticised by the press of the State as a "Do-Nothing Legislature". In this case the denunciation was due partly to the prolonged dead-lock over the election of a United States Senator and partly to habit. Indeed, the press of our State seems to feel that it is not doing its full duty unless it severely denounces the legislature for what it has done or for what it has not done.

When the Thirty-fourth General Assembly raised the compensation of our law-makers the newspapers were sarcastic in their comment — expressing, with much show of earnestness, the hope that the larger salary would bring to the Thirty-fifth General Assembly a better class of legislators. As a matter of fact the Thirty-fifth General Assembly was criticised quite as severely as its predecessors. Denouncing the legislature for what it did not do, each critic had in mind, no doubt, some particular bill which he

thought ought to have been passed. One paper, commenting on the work of this Assembly, declared that it had "passed more bills than any of its predecessors — most of which are foolish or unnecessary — and also nearly doubled the present state levy of taxes. It will go 'thundering down in history' all right, if the execrations of the taxpayer have anything to do with its future".

An examination of the Senate and House files shows that about 1200 bills were introduced in the Thirty-fifth General Assembly. Of this number 397 were enacted into laws and 13 were adopted as joint resolutions. As classified and published by the Secretary of State the enactments include 319 general laws, 24 appropriation acts, 19 special acts, and 35 legalizing acts. Of the 319 general laws passed, 235 are either amending or repealing acts and 84 are designated as "additional" to various chapters or sections of the Code and laws now in force.

While nearly one-half of the acts of the Thirty-third and the Thirty-fourth General Assemblies were signed by Governor Carroll after adjournment, only 33 measures of the Thirty-fifth General Assembly were signed by Governor Clarke after the close of the session. To be sure, Governor Clarke signed 50 laws, 3 appropriation acts, 2 special laws, 3 legalizing acts, and 2 joint resolutions on April 19th, the day of adjournment. Yet, counting all of the acts signed by the Governor on the day of adjournment, together with those signed after adjournment, the total (which is 86) represents a much smaller percentage than in either 1909 or 1911.

Of the 397 acts passed by the Thirty-fifth General Assembly only 117 were approved prior to April 9th. Thus, over two-thirds of the legislation enacted was passed within the last ten days of the session. Of the 24 appropriation acts only 4 were approved prior to April 10th, and 18 were

approved after April 16th. On the other hand, of the 19 special acts and 35 legalizing acts, 30 were approved before April 9th and only 5 were signed on the last day of the session, which was April 19th. It appears, therefore, that most of the important legislation of the Thirty-fifth General Assembly was hurried through during the last days of the session.

In discussing the work of the Thirty-fifth General Assembly the writer has, for convenience, classified the materials gathered from the published laws under such heads as seemed to him best adapted to give the reader a fair conception of the character and tendency of the legislation enacted. It is hardly necessary to add that only the more important and significant measures will be considered in this paper.

COMPILATION OF THE LAWS

The first act printed in the laws of the Thirty-fifth General Assembly provides for the compilation and publication of the laws of the Thirty-third, Thirty-fourth, and Thirty-fifth General Assemblies, together with the laws in the *Supplement to the Code, 1907;* and this new compilation is to be known as the *Supplement to the Code, 1913.*[1]

SUFFRAGE AND ELECTIONS

In the matter of suffrage and elections some noteworthy and important steps were taken. After years of agitation, during which the Senate and the House alternately approved and rejected the proposition, a joint resolution providing for the submission of a constitutional amendment extending the right to vote to women was finally passed by both houses of the Thirty-fifth General Assembly.[2] Another joint resolution provides for a constitutional amendment covering

1 *Laws of the Thirty-fifth General Assembly,* Ch. 1.

2 *Laws of the Thirty-fifth General Assembly,* House Joint Resolution, No. 6.

the initiative and referendum in reference to laws enacted by the legislature and to constitutional amendments.[3] And still another resolution proposes a constitutional amendment providing for the holding of the general election in 1916 in the same month and on the same day as the presidential election, and thereafter leaving it to the General Assembly to prescribe the time of holding such elections.[4] All of these proposed amendments must, of course, be adopted by the Thirty-sixth General Assembly before being submitted to the people.

The proposed amendment to the Constitution of the United States providing for the direct election of United States Senators was ratified. The Oregon plan of electing United States Senators was also adopted;[5] but this act will, of course, not be operative, since the Federal amendment on the same subject has been ratified by the requisite number of States.

In line with the general tendencies of popular government a law providing for the selection of delegates to National party conventions at a primary election was enacted. While the number of delegates is to be determined by party rules, the act of the legislature makes provision for a preferential vote on candidates for the offices of President and Vice President. The voter is also given the opportunity to determine whether or not the unit or district rule shall prevail in counting the votes of the State at the National convention.[6]

[3] *Laws of the Thirty-fifth General Assembly,* House Joint Resolution, No. 5. The initiative will require not less than twelve per cent or more than twenty-two per cent of the qualified voters of each congressional district. To invoke the referendum the General Assembly can not require less than ten per cent nor more than twenty per cent of the qualified voters in each congressional district.

[4] *Laws of the Thirty-fifth General Assembly,* House Joint Resolution, No. 3.

[5] *Laws of the Thirty-fifth General Assembly,* House Joint Resolution, No. 7, also Ch. 105, 109.

[6] *Laws of the Thirty-fifth General Assembly,* Ch. 111.

Under the original primary election law there was no provision for the filing of nomination papers in the case of township offices. In order that modest but deserving men may now become candidates for such offices without appearing to seek the honor, provision has been made whereby a few of their friends, if qualified voters, may file a nomination as in the case of other officers.[7]

A new section was added to the corrupt practice acts of the State by making it a misdemeanor for any candidate for office to promise support or influence in behalf of another for any position, place, or office in consideration of any other person supporting him. It is likewise made a misdemeanor for any one to solicit consideration in return for support.[8]

In Monroe County there are several large mining communities, where the mines are owned and controlled by the mining companies. These communities have never been incorporated, owing to the opposition of the companies. And so, for purposes of local government, they are considered villages and are under township organization. It was to safeguard elections in these communities that an act, introduced by Senator Clarkson of Albia, was passed providing for the registration of voters in villages of 3500 or more.[9]

Three minor acts relating to elections provide (1) rules and official ballots for school elections,[10] (2) that the Board of Supervisors shall select two of the Township Trustees by lot to serve as judges of election, when all three of them are of the same political party,[11] and (3) that city hospital trus-

7 *Laws of the Thirty-fifth General Assembly,* Ch. 110.

8 *Laws of the Thirty-fifth General Assembly,* Ch. 303.

9 *Laws of the Thirty-fifth General Assembly,* Ch. 108.

10 *Laws of the Thirty-fifth General Assembly,* Ch. 245.

11 *Laws of the Thirty-fifth General Assembly,* Ch. 112.

tees shall be chosen in the future at general or special city elections.[12]

SHORT BALLOT

In the legislation of the Thirty-fifth General Assembly a notable beginning has been made in the direction of the adoption of the short ballot principle. Three State officers, namely, the Superintendent of Public Instruction,[13] the Clerk of the Supreme Court, and the Supreme Court Reporter were made appointive officers.[14] The County Superintendent was also removed from the list of elective officers; but a cumbersome method of selection was provided to take the place of the popular vote. A convention composed of the presidents of the school-boards of the school townships, of the cities, and of the towns or villages of the county, is vested with the power of selecting the County Superintendent, or they may, by a three-fourths vote, select a committee to name the proper person.[15] In the field of municipal government the office of City Solicitor was taken from the list of elective officers in cities of the second class and made appointive by the Council.[16] Thus the short ballot principle, introduced into Iowa through the commission-governed cities, is being extended into the fields of State and local government.

OFFICE OF GOVERNOR

The office of Governor was little modified by the Thirty-fifth General Assembly. One act fixes the date for counting

[12] *Laws of the Thirty-fifth General Assembly,* Ch. 71.

[13] *Laws of the Thirty-fifth General Assembly,* Ch. 103. The Superintendent of Public Instruction will hereafter be appointed by the Governor with the consent of two-thirds of the Senate. His term of office was lengthened to four years and his power over the rural, graded, and high schools of the State was greatly extended.

[14] *Laws of the Thirty-fifth General Assembly,* Ch. 106. These officers will hereafter be appointed by the Supreme Court.

[15] *Laws of the Thirty-fifth General Assembly,* Ch. 107.

[16] *Laws of the Thirty-fifth General Assembly,* Ch. 54.

the votes for Governor and Lieutenant Governor and the date for their inauguration.[17] Another measure, which relates primarily to road legislation, authorizes the Governor to direct the Attorney General to appear on behalf of any county, city, or town in any case involving the validity of any alleged patent on any matter or things entering into highway, bridge, or culvert construction. The act carries with it an appropriation of $50,000 to cover the expense of investigations.[18] And a third statute grants the Governor discretion in the matter of granting pardons, after the suspension of execution of the sentence by the trial judge.[19]

STATE JUDICIARY

Some radical changes were made in the State judiciary by the legislation under review. In the first place, another member was added to the Supreme Court, making seven justices in all.[20] At the same time provision has been made for the division of the Supreme Court into two sections, the Chief Justice presiding in open court over each section. Cases may be submitted to each section separately.[21] By these innovations it is hoped to expedite the handling of cases in the Supreme Court.

The Chief Justice of the Supreme Court was given authority to transfer District Judges from one district to another when dockets are overcrowded, in order to facilitate the business of the court in such districts.[22]

The method of nominating and electing judges was completely changed. The judges of the supreme, district, and

17 *Laws of the Thirty-fifth General Assembly,* Ch. 3.

18 *Laws of the Thirty-fifth General Assembly,* Ch. 4.

19 *Laws of the Thirty-fifth General Assembly,* Ch. 314.

20 Judge Withrow of Mt. Pleasant was appointed by the Governor to serve until January 1, 1915, the new place to be filled by popular vote at the general election in 1914.

21 *Laws of the Thirty-fifth General Assembly,* Ch. 22.

22 *Laws of the Thirty-fifth General Assembly,* Ch. 29.

superior courts will hereafter be nominated and elected on a non-partisan ticket. By petition candidates will now secure places on the primary ballot, upon which the names will be rotated as in the case of other officers, but without party designation.[23] For the special benefit of Polk County an act was passed providing that any county which of itself constitutes a judicial district, and has a population of 75,000 or more, shall nominate its District Judges at the primary election, and that all of the provisions of the primary law relative to the nomination of county officers shall apply to the nomination of District Judges in such districts.[24] This act, however, will not go into operation as the result of a clause which provides that it shall not apply when by statute provision is made for State-wide, non-political judicial nominations.

Although important bills providing for much needed reform in court procedure failed to pass, several minor measures relating to this subject were enacted into law. One act provides that a written copy of the judge's instructions to the jury shall be given to the attorneys on both sides, with reasonable time to examine the same before it is read to the jury; and attorneys are required to file objections at once or by the time a motion for a new trial is made.[25] Another act of considerable importance requires material witnesses to attend and give testimony in criminal actions in other States having a reciprocal arrangement.[26]

Three additional District Judges were provided for — one in the tenth district,[27] and one in the fifteenth district;[28] while the old Fourth Judicial District was divided by throw-

[23] *Laws of the Thirty-fifth General Assembly,* Ch. 104.

[24] *Laws of the Thirty-fifth General Assembly,* Ch. 25.

[25] *Laws of the Thirty-fifth General Assembly,* Ch. 289.

[26] *Laws of the Thirty-fifth General Assembly,* Ch. 315.

[27] *Laws of the Thirty-fifth General Assembly,* Ch. 24.

[28] *Laws of the Thirty-fifth General Assembly,* Ch. 28.

ing Woodbury and Monona counties into the new fourth district and uniting the other six counties into the twenty-first district with two judges, thus creating an additional judicial district and providing for another judge.[29]

An act affecting the superior courts of the State makes the City Recorder or City Clerk the deputy clerk of the Superior Court with the right to perform all the duties of the clerk of such court.[30]

STATE OFFICERS

The principal acts relating to State officers provide for increases in salary as follows: the Secretary of State, the State Auditor, and the State Treasurer from $2200 per year to $3600, the Attorney General from $4000 to $5000, and the Clerk of the Supreme Court from $2200 to $2700. The act making these increases in salary provides that no additional compensation shall be paid by the State of Iowa to any of these officers for services rendered to the State.[31] The Secretary, Auditor, and Treasurer had formerly received $1200 each for services as members of the Executive Council.

The salaries of the wardens, deputies, and other officials and employees of the State penitentiary and reformatory, excepting those of the matron of the woman's department, the clerk, and the chaplain, were materially increased.[32] The act also gives to the wardens, deputy wardens, and to the matron of the female department, in addition to their compensation, a house or house rent, water, heat, ice, light, and domestic service. The salary of the Fish and Game Warden was increased,[33] as was also that of the chief exec-

29 *Laws of the Thirty-fifth General Assembly,* Ch. 27.
30 *Laws of the Thirty-fifth General Assembly,* Ch. 32.
31 *Laws of the Thirty-fifth General Assembly,* Ch. 7.
32 *Laws of the Thirty-fifth General Assembly,* Ch. 316.
33 *Laws of the Thirty-fifth General Assembly,* Ch. 203.

utive officers of the Soldiers' Orphans Home[34] and the College for the Blind.[35]

The appropriation for the State Entomologist was raised from $1000 to $2000;[36] and the per diem compensation of the Bee Inspector was increased from $3 to $5, with a maximum of $1500 instead of $1000 as heretofore.[37]

When the Thirty-fourth General Assembly increased the compensation of legislators from $550 to $1000 per session it failed (probably through oversight) to increase the maximum per diem amount of compensation which may be received by them for services at special sessions: the Thirty-fifth General Assembly increased the maximum per diem compensation from $6 to $10. The compensation of members who serve but part of the session was also fixed by law.[38]

NEW OFFICES CREATED

Provision was made for the appointment of an Assistant Attorney General who is to devote his entire time to the office and receive a salary of $2500.[39]

A new group of officers, heretofore unknown to the statutes, was created. These officers, called State Examiners for Counties, are appointed by the State Auditor and are required to see that the counties of the State install a uniform system of accounting, reporting, and auditing. They are empowered to examine all county officers and offices receiving or disbursing public funds.[40] The offices of Insurance Commissioner[41] and of Industrial Commissioner,[42]

[34] *Laws of the Thirty-fifth General Assembly,* Ch. 233.
[35] *Laws of the Thirty-fifth General Assembly,* Ch. 234.
[36] *Laws of the Thirty-fifth General Assembly,* Ch. 210.
[37] *Laws of the Thirty-fifth General Assembly,* Ch. 211.
[38] *Laws of the Thirty-fifth General Assembly,* Ch. 2.
[39] *Laws of the Thirty-fifth General Assembly,* Ch. 23.
[40] *Laws of the Thirty-fifth General Assembly,* Ch. 8.
[41] *Laws of the Thirty-fifth General Assembly,* Ch. 146.
[42] *Laws of the Thirty-fifth General Assembly,* Ch. 147, Part II.

which were created, will be considered elsewhere. Three Assistant Fish and Game Wardens were provided for at $1200 each per year.[43]

The acts which have given State officials most concern are (1) the law authorizing the Joint Committee on Retrenchment and Reform to employ expert accountants and efficiency engineers and institute such changes in the administration of public affairs as will promote the efficient and economical administration of the affairs of the State in its various departments,[44] and (2) the act requiring all elective or appointive State officers, all boards, commissions, and departments, except the Department of Agriculture, to turn into the State treasury within three days ninety per cent of all fees and moneys collected.[45]

COUNTY OFFICERS AND COUNTY GOVERNMENT

The acts relative to county officers are chiefly those authorizing an increase in their compensation. Indeed, the compensation of nearly all county officers was raised. Thus a graduated scale of salaries for County Auditors was established, ranging from $1400 in counties of 15,000 population to $3300 in counties of 100,000.[46] In counties of 25,000 population (instead of 30,000 as heretofore) the Board of Supervisors is given discretion in fixing the compensation of County Treasurers and their deputies.[47] In counties of less than 10,000 population the Board of Supervisors may allow the Deputy County Treasurer more than $300, if the county is doing a drainage business in an amount requiring additional help.[48] The compensation of County

[43] *Laws of the Thirty-fifth General Assembly,* Ch. 203.

[44] *Laws of the Thirty-fifth General Assembly,* Ch. 19. Also House Joint Resolution No. 9. The efficiency engineers will report to the committee in November, 1913.

[45] *Laws of the Thirty-fifth General Assembly,* Ch. 18.

[46] *Laws of the Thirty-fifth General Assembly,* Ch. 43.

[47] *Laws of the Thirty-fifth General Assembly,* Ch. 44.

[48] *Laws of the Thirty-fifth General Assembly,* Ch. 45.

Recorders was graduated from $1200 in counties of less than 15,000 population to $2000 in counties of over 60,000 population.[49]

The Sheriffs of the larger counties felt that they had received a slap at the hands of the General Assembly when it passed an act making fifty cents per day the maximum amount which may be charged for the care of prisoners and providing that the supervisors may fix a lower rate.[50] It is claimed that the Sheriff of Polk County will lose more than $5000 a year as the result of this act. In addition the authority of the Sheriff was reduced by denying him henceforth the power to call out the militia within his county.[51] Finally, the clerks and deputies in counties of 65,000 or over (which means Polk County) will receive an increase in compensation.[52]

It is significant that hereafter County Supervisors will be required to give bonds of at least $5000, to be approved by the District Judge.[53]

Equally noteworthy is an act relating to the qualifications of County Attorneys, which requires them to be qualified electors of their respective counties and duly admitted to the practice of law in this State, and provides that revocation or suspension of one's license to practice disqualifies for the office.[54] The powers of the County Attorney are increased by authorizing him to require peace officers to investigate and report any alleged or supposed infraction of the liquor laws within his county.[55]

County officers were empowered to designate newspapers

[49] *Laws of the Thirty-fifth General Assembly,* Ch. 46.
[50] *Laws of the Thirty-fifth General Assembly,* Ch. 47.
[51] *Laws of the Thirty-fifth General Assembly,* Ch. 181.
[52] *Laws of the Thirty-fifth General Assembly,* Ch. 35.
[53] *Laws of the Thirty-fifth General Assembly,* Ch. 113.
[54] *Laws of the Thirty-fifth General Assembly,* Ch. 36.
[55] *Laws of the Thirty-fifth General Assembly,* Ch. 192.

printed in foreign languages for the publication of official notices, provided such notices are also printed in English.[56]

The attempt to divide the County of Kossuth and create the northern half as the County of Larrabee failed; but a special act was passed which provides for the submission of the question to the voters of the county at the general election in 1914.[57]

MUNICIPAL LEGISLATION

An unusually large amount of municipal legislation was enacted by the Thirty-fifth General Assembly. Municipal problems have not only greatly increased in recent years, but there is also an awakened public interest in the correct solution of these problems.

The League of Iowa Municipalities, which was organized in 1898, largely through the efforts of Mr. Frank G. Pierce of Marshalltown, and which has rendered effective service in suggesting to municipal officials their common interests, was given legal recognition by the Thirty-fifth General Assembly through an act permitting cities and towns to become members of the league, pay dues in proportion to population, and send two delegates to the annual meeting. Moreover, the Chief Clerk of the State Municipal Accounting Department was directed to meet with the league in 1913 and formulate a system of accounting and reports to be adopted by the league. Hereafter the league will be required to make such accounts and reports as shall be required by the State Municipal Accounting Department.[58]

The municipal governments of Iowa may be grouped as follows: (1) the special charter cities organized by legislative enactments prior to the adoption of the present Constitution; (2) municipalities organized under the general

[56] *Laws of the Thirty-fifth General Assembly,* Ch. 48.

[57] *Laws of the Thirty-fifth General Assembly,* Ch. 344.

[58] *Laws of the Thirty-fifth General Assembly,* Ch. 59.

municipal incorporation act, consisting of towns having a population of less than 2000, cities of the second class having a population between 2000 and 15,000, and cities of the first class having a population of 15,000 or over; and (3) cities organized under the commission plan of government. Although the Constitution of the State prohibits the passage of any local or special acts affecting cities and towns, there is a constant demand on the part of cities for special legislation. As a result each session of the legislature witnesses the passage of acts couched in general terms which are clearly intended for the benefit of a particular city. Moreover, the legislature seems to be willing to legalize all acts of doubtful validity — if the large number of such acts passed at each session is any evidence.

Cities of the first and second classes are to a certain extent guaranteed their classification notwithstanding a loss of population. Thus, cities of the first class retain their rank until their population falls below 10,000, while those of the second class retain their rank until their population is reduced to 1500.[59]

The commission form of city government was at first limited to cities of 25,000 or over; but the Thirty-fourth General Assembly extended the privilege to cities of 7000 or over. Finally, an act of the Thirty-fifth General Assembly places the commission form within the reach of all cities of 2000 and above. Furthermore, the compensation of Mayor and Councilmen under this plan of government was put upon a population basis.[60]

Councilmen in cities of the first class will probably receive additional compensation through the operation of an act which permits them to receive $2 per day when acting as a board of review, whereas the old law limited their compen-

[59] *Laws of the Thirty-fifth General Assembly,* Ch. 53.

[60] *Laws of the Thirty-fifth General Assembly,* Ch. 102.

sation to $250 per year for all services.[61] City Assessors in cities of 20,000 or over may now receive $1800 per year.[62] An act which will make the office of City Treasurer less profitable requires such treasurer to deposit all city funds in banks at not less than two per cent per annum on ninety per cent of the daily balances and forbids him from loaning any funds for private purposes.[63]

A number of acts relating to the powers of city and town governments will be mentioned under the head of public improvements and public utilities. Among the numerous miscellaneous powers conferred upon municipalities the following may be noted: the right to license plumbers, to prescribe rules and regulations for the installation of plumbing, and to provide for inspection.[64] Park commissioners may be appointed to serve from the time the people vote to create a park and until the next regular city election.[65] Cities, towns, and townships are required to receive, accept, and expend all money and property donated or left to them by bequest to be used in caring for the property of the donor in any cemetery or in accordance with the terms of the donation or bequest.[66] Cities of 35,000 and cities under special charter may purchase land for the erection of a city hall.[67] (There are only four cities in the State with a population of 35,000 or over.[68])

To commission cities of 25,000 or over, power was given to assume charge, custody, and control of all trees and shrubbery upon the public streets; to plant and trim trees

61 *Laws of the Thirty-fifth General Assembly,* Ch. 56.
62 *Laws of the Thirty-fifth General Assembly,* Ch. 57.
63 *Laws of the Thirty-fifth General Assembly,* Ch. 55.
64 *Laws of the Thirty-fifth General Assembly,* Ch. 61.
65 *Laws of the Thirty-fifth General Assembly,* Ch. 99.
66 *Laws of the Thirty-fifth General Assembly,* Ch. 30.
67 *Laws of the Thirty-fifth General Assembly,* Ch. 72.
68 Dubuque, Davenport, Sioux City, and Des Moines.

and charge the same to the property owners.[69] (At present there are only three commission cities with a population of 25,000.) The law requiring a three-fourths vote of the Council in certain cases being impossible of operation, in cities under the commission plan having but three Commissioners, the law was amended so as to permit a two-thirds vote in such cases.[70] The time of making municipal financial reports to the State Auditor is changed from July to May, and the Auditor may send examiners to cities failing or neglecting to make report at the proper time.[71]

In the great majority of the cities and towns of Iowa the Mayor acts in the capacity of a police magistrate, with the powers of a Justice of the Peace. Cases arising under city ordinances, however, have heretofore been exclusively within the jurisdiction of the Mayor's court. But henceforth cases involving a violation of city ordinances may upon the motion of the Mayor be transferred for further proceedings to any Justice of the Peace Court within the city or town.[72] This will no doubt relieve many Mayors of the embarrassment of pronouncing judgment in disagreeable cases.

PUBLIC IMPROVEMENTS

Most of the contemporary problems of city government relate to its business activities and are concerned chiefly with public improvements and public utilities. Although vigorous efforts have been made to secure the passage of a comprehensive public utilities bill which would extend the power of the State to the regulation and control of utilities in the municipalities of the State such legislation has failed of enactment — largely through the opposition of municipal administrators, who dislike State control. At the same time

[69] *Laws of the Thirty-fifth General Assembly,* Ch. 101.

[70] *Laws of the Thirty-fifth General Assembly,* Ch. 78.

[71] *Laws of the Thirty-fifth General Assembly,* Ch. 97.

[72] *Laws of the Thirty-fifth General Assembly,* Ch. 58.

some progress was made by the Thirty-fifth General Assembly, as will be seen from the following enactments touching public improvements and public utilities.

The existing law relative to street improvement in cities was made applicable to towns.[73] And a new departure seems to have been made in the manner of levying assessments for street improvements by an act which provides that such improvements shall be "assessed against private property, against all lots and parcels of land according to area so as to include one half of the privately owned property between the street improved and the next street whether such privately owned property abut upon said street or not", but no property situated more than 300 feet from the improved street shall be assessed.[74]

Where assessments for improvements have been declared void, cities may reassess the same property for such improvements;[75] and Section 807 of the Code relative to the assessment of abutting property for sewer benefits was made applicable to cities under special charters.[76] Another act provides for the assessment of the cost of main sewers to the property within the territory drained, but specially exempts cities of more than 47,000.[77] (At present Sioux City and Des Moines are the only cities having more than 47,000 population.)

Cities of 30,000 and over (there are at present only five of them) are authorized to extend, improve, and repair streets, highways, avenues, alleys, public grounds, wharves, landings, and market places within their limits.[78] A peculiar feature of this measure is the provision that the expense

[73] *Laws of the Thirty-fifth General Assembly,* Ch. 84.
[74] *Laws of the Thirty-fifth General Assembly,* Ch. 76.
[75] *Laws of the Thirty-fifth General Assembly,* Ch. 83.
[76] *Laws of the Thirty-fifth General Assembly,* Ch. 79.
[77] *Laws of the Thirty-fifth General Assembly,* Ch. 85.
[78] *Laws of the Thirty-fifth General Assembly,* Ch. 75.

of such improvements "may be paid from the general fund or from the highway or poll taxes of such cities or towns." Under the law there are no *towns* of 30,000 in the State. To be sure a community may refuse to incorporate and thus become an overgrown village; but when once incorporated as a town, it becomes a city of the second or of the first class automatically as its population increases.

When streets and alleys are repaved the city may dispose of all material and salvage from the old paving, the proceeds to be equitably applied upon the cost of the new improvement, or the property owner may, if he wishes, take the salvage.[79] Cities under special charters may establish levee improvement commissions.[80] Special charter, first class, and commission-governed cities having less than 25,000 inhabitants may establish the boundary lines of lands adjoining meandered streams within their corporate limits and levy a tax for river front improvement.[81] Within twenty days after the completion of any street improvement the City Council or Board of Public Works must ascertain the cost and prepare the assessment.[82] An act prohibiting public officers or their deputies from divulging the contents of sealed bids under heavy penalty will no doubt apply with special force to city officials in the matter of public improvements.[83]

PUBLIC UTILITIES

Among the acts relative to public utilities one notes that cities and towns are given authority to contract to purchase heat, gas, water, and electric currents, and to sell the same[84]

[79] *Laws of the Thirty-fifth General Assembly*, Ch. 77.
[80] *Laws of the Thirty-fifth General Assembly*, Ch. 95.
[81] *Laws of the Thirty-fifth General Assembly*, Ch. 90.
[82] *Laws of the Thirty-fifth General Assembly*, Ch. 81.
[83] *Laws of the Thirty-fifth General Assembly*, Ch. 15.
[84] *Laws of the Thirty-fifth General Assembly*, Ch. 66.

to municipalities, individuals, or private corporations outside the city or town limits as well as within.[85] Cities of the first class are authorized to expend money accumulated in a sinking fund for the purpose of purchasing water works;[86] but cities of 5000 or less can not levy assessments to exceed seven mills on the dollar for gas or electric light or power.[87]

PARKS, PLAYGROUNDS, AND RECREATION CENTERS

The maintenance of parks, playgrounds, and public amusements has become as much a function of city government as street cleaning and fire protection. The possible tax levy for park purposes was increased to 2.5 mills, and cities of more than 25,000 inhabitants are permitted to levy an additional mill to purchase park property. Another act permits the levy of an additional mill for the improvement of park lands acquired prior to January 1, 1914.[88]

School corporations are permitted to acquire real estate to the extent of five acres for school playgrounds and other purposes;[89] and independent school districts may become indebted for the purpose of purchasing land as an addition to a site already owned.[90] In cities of the first class and second class, school boards are given authority to grant the use of school buildings and grounds for public recreation and playground purposes.[91]

PUBLIC LIBRARIES

The public library is no longer considered a luxury in the municipal budget, and yet the local communities are dependent upon State legislation for authority in respect to

85 *Laws of the Thirty-fifth General Assembly,* Ch. 67.
86 *Laws of the Thirty-fifth General Assembly,* Ch. 73.
87 *Laws of the Thirty-fifth General Assembly,* Ch. 91.
88 *Laws of the Thirty-fifth General Assembly,* Chs. 88, 89.
89 *Laws of the Thirty-fifth General Assembly,* Ch. 253.
90 *Laws of the Thirty-fifth General Assembly,* Ch. 254.
91 *Laws of the Thirty-fifth General Assembly,* Ch. 257.

almost every phase of the support, management, and control of their public libraries. An examination of the statutes shows that the work of the Thirty-fifth General Assembly as regards public libraries is unusually satisfactory. Cities and towns are permitted to run their library tax up to five mills.[92] Library budgets will profit by an act which removes from exemption unplatted lands within the city limits in tax levies for library purposes.[93] Library trustees are authorized to transfer any balance in the library building fund to the maintenance fund after the library building has been completed and paid for.[94] The library trustees may also contract with school corporations, Township Trustees, Boards of Supervisors, and town or city councils for the free use of the library by the residents of their respective jurisdictions.[95]

It is well known that the organization of library trustees under the commission plan of city government has not given complete satisfaction. To remedy this condition provision has been made for a board of five library trustees to be appointed by the Mayor with the approval of the Council.[96]

GOOD ROADS LEGISLATION

In advance of the meeting of the Thirty-fifth General Assembly the good roads enthusiasts outlined an elaborate plan for the construction and maintenance of hard-surfaced roads at State expense; and during the session they brought considerable pressure to bear upon the members and committees to secure its enactment, but without success. Some important road legislation, however, was passed before the close of the session.

[92] *Laws of the Thirty-fifth General Assembly,* Ch. 68.
[93] *Laws of the Thirty-fifth General Assembly,* Ch. 52.
[94] *Laws of the Thirty-fifth General Assembly,* Ch. 69.
[95] *Laws of the Thirty-fifth General Assembly,* Ch. 70.
[96] *Laws of the Thirty-fifth General Assembly,* Ch. 100.

The State Highway Commission was reorganized and relocated at Ames. It is composed of three persons — the Dean of Engineering at the Iowa State College and two persons appointed by the Governor. The duties of the Commission are to devise and adopt plans of highway construction and to disseminate information to County Supervisors and highway officials on subjects relating to highway improvements and cost of materials. The Commission may remove County Engineers, who are appointed by the Board of Supervisors, and must approve the roads designated by the supervisors for improvement. The act provides for a scheme of county and township roads, and for their draining and grading.[97]

The act relating to the State Highway Commission was approved on April 3, 1913, and an amendatory act was approved on April 22nd, making the system of bridge and culvert work provided for applicable to the whole county outside of cities of the first class and consolidating the road districts of each civil township into a township road district.[98]

Eight per cent of all fees paid for the registration of motor vehicles must be set aside as a maintenance fund for the State Highway Commission.[99]

In the hope of eliminating graft and cutting down the cost of bridges the General Assembly authorized the Governor to direct the Attorney General to investigate, and prosecute when necessary, any case involving the validity of any alleged patents on bridge building material or things entering into highway construction.[100]

Provision is made for the employment of State prisoners upon the public highways under the direction of the State

97 *Laws of the Thirty-fifth General Assembly,* Ch. 122.

98 *Laws of the Thirty-fifth General Assembly,* Ch. 123.

99 *Laws of the Thirty-fifth General Assembly,* Ch. 133.

100 *Laws of the Thirty-fifth General Assembly,* Ch. 4.

Board of Control, the work to be supervised by the State Highway Commission. Work on the highways is optional with the prisoners, who are permitted to retain a part of their wages.[101]

To further the building of good roads Boards of Supervisors are empowered to condemn lands (not to exceed five acres in any one place) for the purpose of obtaining gravel or other road-building materials, and they are required under penalty of removal to provide such tracts so that no part of the county shall be more than six miles distant from such road-building material.[102]

There has also been created a township culvert fund,[103] and Township Trustees are empowered to transfer any balance in the drag fund of the previous year to the general road fund.[104] This last act really did not pass. It was signed and enrolled in due form in the House, but failed to pass the Senate. Through some mistake, however, it came to the Governor and was signed and published in the *Register and Leader* and the *Des Moines Capital* in order that it might take effect immediately.

MOTOR VEHICLES AND ROAD LAWS

The appearance of the automobile has brought many modifications in the old laws of the road. Indeed, the good roads movement is the direct outgrowth of the ever-present automobile, and recent road legislation is a recognition of the fact that the old laws are not suited to the new mode of travel.

The Thirty-fourth General Assembly passed an elaborate act defining the status of motor vehicles, regulating their use upon the highways of the State, and providing for the

101 *Laws of the Thirty-fifth General Assembly,* Ch. 134.

102 *Laws of the Thirty-fifth General Assembly,* Ch. 164.

103 *Laws of the Thirty-fifth General Assembly,* Ch. 126.

104 *Laws of the Thirty-fifth General Assembly,* Ch. 319.

registration and licensing of such vehicles.[105] This act was largely re-written by the Thirty-fifth General Assembly in the direction of expanding and strengthening its provisions. In view of the rapid depreciation in value of motor vehicles, those that have been in use for four years are taxed but one-half of the regular amount. Moreover, persons who buy cars after August 1st are required to pay but one-half the tax for the balance of the year.[106]

Auto clubs and good roads associations that have marked out the "River to River Road", the "Red Ball Route", the "White Pole Route", and the like, can now register such highway routes with the State Highway Commission and thus obtain an exclusive right to a name, color combination, and design for marking such highways. Furthermore, it is made a misdemeanor for any person or association to use for similar purposes the name, color combination, or design already registered, or to deface or injure any sign boards or markings designating routes.[107]

Another act makes it a serious offence for any one to willfully remove, tear down, destroy or carry away any lamp, guard, or other thing erected for the purpose of guarding or enclosing unsafe or dangerous places in streets or highways.[108]

The old laws relative to passing on the public highway were repealed and re-written. Travelers will still turn to the right as heretofore; but a new provision was added — for which the automobile is no doubt responsible — that whenever a person in any vehicle shall approach from the rear upon the public highway and desire to pass, it shall be the duty of the driver or operator of the vehicle ahead to give one-half of the beaten path thereof, upon proper signal

105 *Laws of the Thirty-fourth General Assembly,* Ch. 72.

106 *Laws of the Thirty-fifth General Assembly,* Ch. 130.

107 *Laws of the Thirty-fifth General Assembly,* Ch. 125.

108 *Laws of the Thirty-fifth General Assembly,* Ch. 127.

or request, by turning to the right, unless to do so would jeopardize his own safety.[109]

The traffic ordinances for the regulation of automobiles which have been adopted in most of the larger cities were enacted into a State law and made applicable to all cities and towns. The law provides for keeping to the right and for turning and passing. It prohibits the visible emission of an unduly great amount of steam or smoke, or running with the cut-out open. Persons under fifteen years of age are forbidden to drive a motor vehicle. It is also forbidden to leave an automobile standing in certain places, or to leave it standing unattended while the machinery is in operation.[110]

PUBLIC SAFETY

A number of the laws above mentioned were passed in the interests of public safety, and might very properly have been listed under this head. Here other public safety measures will be noted.

Cities and towns are authorized to adopt a building code and establish reasonable rules and regulations for the erection, reconstruction, and inspection of buildings of all kinds.[111] Boarding-houses of three or more stories in height, in which sleeping-rooms are kept for rent or hire, are to be equipped with fire escapes.[112]

Cities and towns are authorized to enact ordinances for protection against fire and electrical apparatus, to establish fire limits and prohibit within such limits the erection of buildings and structures of certain construction, and to remove and take down any building or structure erected contrary to such ordinance.[113]

[109] *Laws of the Thirty-fifth General Assembly,* Ch. 131.

[110] *Laws of the Thirty-fifth General Assembly,* Ch. 132.

[111] *Laws of the Thirty-fifth General Assembly,* Ch. 63.

[112] *Laws of the Thirty-fifth General Assembly,* Ch. 305.

[113] *Laws of the Thirty-fifth General Assembly,* Ch. 64.

Another act regulates the sale of calcium carbide and prescribes the manner in which it shall be packed and labeled.[114] A law which ought to be strictly enforced prohibits the carrying of concealed weapons, makes it unlawful for any one under fourteen years of age to carry fire-arms of any description, and prohibits the sale, loaning, or giving away of certain dangerous weapons. A special police permit is required before any one may carry a concealed revolver or pistol; and dealers are forbidden to sell any weapon which may be concealed on the person without the proper permit, and they must report all sales of such weapons to the County Recorder within twenty-four hours.[115]

Cities with a population of more than 24,000 are authorized to issue flood protection bonds.[116] This act is probably intended for the benefit of the city of Burlington which has a population of 24,324. Commission cities are given additional powers in the matter of flood protection,[117] and are authorized to levy an annual tax of one mill for purchasing and maintaining apparatus and equipment for use in the police service in the department of public safety.[118] Cities of 5,000 or over are permitted to levy a special tax of not to exceed one and a half mills annually for acquiring property for the use of the fire department and for equipping the same.[119]

The act of the Thirty-fourth General Assembly which required the reporting of all fires to the State Fire Marshal was amended so as to make it a misdemeanor to fail or refuse to report the cause of fires. This statute incidentally

114 *Laws of the Thirty-fifth General Assembly,* Ch. 200.
115 *Laws of the Thirty-fifth General Assembly,* Ch. 297.
116 *Laws of the Thirty-fifth General Assembly,* Ch. 86.
117 *Laws of the Thirty-fifth General Assembly,* Ch. 87.
118 *Laws of the Thirty-fifth General Assembly,* Ch. 96.
119 *Laws of the Thirty-fifth General Assembly,* Ch. 65.

gives the State Fire Marshal an extra $1000 to spend, and it raises the salary of his deputy $300.[120]

Three laws affecting railroads are clearly in the interests of public safety. One practically abolishes narrow gauge railroads in Iowa.[121] Another requires locomotive engines to be equipped with frost glass from November 1st to April 1st.[122] And a third requires locomotives to have head-lights that will enable the operator plainly to discern an object the size of a man lying prone on the track at a distance of 1100 feet from the head-light.[123] This act does not apply to lines under twenty miles in length.[124]

PUBLIC HEALTH

The State Board of Health was reorganized, its membership being reduced to five members and a secretary. Not more than three members of this board may belong to the same political party and not more than two of them may belong to the same school of medical practice. One member of the board must be a civil and sanitary engineer.[125] The granting to the State Board of Health of power to enforce sanitary regulations in any locality when petitioned by five or more citizens of such locality is significant as the possible beginning of a more extended central control of the State board over the local boards of health.[126]

Additional power is granted to cities and towns in the matter of the prevention of nuisances, the regulation of slaughter-houses, and the like.[127]

The smoke nuisance law of 1911 was reënacted and made

[120] *Laws of the Thirty-fifth General Assembly,* Ch. 224.
[121] *Laws of the Thirty-fifth General Assembly,* Ch. 170.
[122] *Laws of the Thirty-fifth General Assembly,* Ch. 167.
[123] *Laws of the Thirty-fifth General Assembly,* Ch. 171.
[124] *Laws of the Thirty-fifth General Assembly,* Ch. 172.
[125] *Laws of the Thirty-fifth General Assembly,* Ch. 207.
[126] *Laws of the Thirty-fifth General Assembly,* Ch. 208.
[127] *Laws of the Thirty-fifth General Assembly,* Ch. 60.

applicable to cities of 30,000 and special charter cities of 16,000 or over.[128] The original law was applicable only to the city of Des Moines. There are only three special charter cities with a population of over 16,000 — Muscatine has 16,178; Dubuque, 38,494; and Davenport, 43,028. It is interesting to note that the law will include Muscatine with 16,178 inhabitants; while Burlington, Clinton, Council Bluffs, Ottumwa, and Waterloo (each having over 22,000 inhabitants but under 30,000) will apparently not come within the scope of the law.

Cities of 80,000 or over may now levy a mill tax for acquiring and maintaining a garbage disposal plant.[129] At present this is, of course, an act solely for the benefit of Des Moines.

County Boards of Supervisors are empowered to make provision for the segregation and support of indigent persons affected with pulmonary tuberculosis in its advanced stages.[130]

Railroads are required to equip and maintain sanitary closets at all railroad stations in the State, and the duty of inspecting the same is given to the Hotel Inspector.[131]

Another act declares syphilis and gonorrhea to be contagious and infectious diseases, and physicians are required to report all cases coming to them for treatment to the local board of health.[132] The transmitting of either of these diseases to another is made a misdemeanor.

An act which will probably be difficult to enforce denies the use of tobacco in any form to pupils in the public schools of the State.[133]

128 *Laws of the Thirty-fifth General Assembly,* Ch. 49.

129 *Laws of the Thirty-fifth General Assembly,* Ch. 98.

130 *Laws of the Thirty-fifth General Assembly,* Ch. 40.

131 *Laws of the Thirty-fifth General Assembly,* Ch. 175.

132 *Laws of the Thirty-fifth General Assembly,* Ch. 212.

133 *Laws of the Thirty-fifth General Assembly,* Ch. 241.

Two acts which may be classed as pure food laws are of special interest to all who eat. The one relates to cold storage and refrigerating warehouses, and requires all such establishments to be licensed by the State Dairy and Food Commissioner and to be kept in a sanitary condition as directed by such commissioner. The act requires that the date of receipt and removal of all articles of food shall be recorded; limits the storage period to twelve months; prescribes the labeling of all cold storage goods as such when offered for sale; and prohibits the re-storage of goods which have once been put on the market.[134]

The other pure food act is a long statute of fifteen sections which seeks to establish standards of sanitation in food-producing establishments. It is applicable to every kind of an establishment where articles of food are produced, packed, stored, sold, or distributed — including the vehicles in which food is placed for transportation. It defines how buildings in which food is produced should be constructed and kept, and is especially specific in reference to sanitary slaughter-houses.[135]

The last act to be noted under this head is one relating to hotels. It defines a hotel as a building or structure kept or advertised as an inn, hotel, or public lodging-house, containing four or more sleeping-rooms; and it provides specifically that "each bed, bunk, cot or other sleeping place provided for the use of guests shall be supplied with pillow-slips and under and top sheets, each top sheet to be made ninety-six (96) inches long, and of sufficient width to completely cover the mattress and springs; said sheets and pillow-slips to be made of white cotton or linen, and all such sheets and pillow-slips, after being used by one guest, to be washed and ironed before they are used by any other guest,

[134] *Laws of the Thirty-fifth General Assembly*, Ch. 199.

[135] *Laws of the Thirty-fifth General Assembly*, Ch. 201.

a clean set being furnished each succeeding guest. All bedding used in any hotel shall be thoroughly aired and kept clean. Any room in any hotel under this act which shall become infested with vermin or bed-bugs shall be renovated until said vermin or bed-bugs are exterminated."[136]

LIQUOR LEGISLATION

Four laws designed to curb the liquor traffic were passed by the Thirty-fifth General Assembly. The County Attorney was authorized to direct any peace officer within the county to make special investigations of any alleged or supposed infraction of the law and file a report in writing within a reasonable time.[137] The so-called "Moon Law" limiting the number of saloons to one for every 1000 inhabitants was made applicable to special charter cities.[138] The saloon day was shortened three hours so that saloons may now remain open from 7:00 A. M. to 9:00 P. M. instead of from 5:00 A. M. to 10:00 P. M. as heretofore.[139] An attempt to fix the closing hour at 8:00 P. M. failed.

The "Five Mile Bill" which has been before several General Assemblies finally passed, to take effect when the present petitions of consent expire. This act prohibits the sale of intoxicating liquors within five miles of any educational institution under the control of the State Board of Education.[140]

SPECIAL MILLAGE FOR THE BOARD OF CONTROL INSTITUTIONS

Iowa was among the first to centralize the administration of the State's charitable, penal, and reformatory institutions under one governing board, known here as the Board of Control of State Institutions. This board is now charged

136 *Laws of the Thirty-fifth General Assembly,* Ch. 186.
137 *Laws of the Thirty-fifth General Assembly,* Ch. 192.
138 *Laws of the Thirty-fifth General Assembly,* Ch. 195.
139 *Laws of the Thirty-fifth General Assembly,* Ch. 194.
140 *Laws of the Thirty-fifth General Assembly,* Ch. 193.

with the management of the Iowa soldiers' home, Iowa soldiers' orphans' home, the school for the deaf, the institutions for feeble-minded children, the State sanitorium for the treatment of tuberculosis, the State industrial schools, the State hospitals, the penitentiary, the reformatory, the Iowa industrial reformatory for females, the district custodial farms, and the State colony for epileptics. For all these institutions a special tax of one-half mill on the dollar is levied for five years to create a fund to buy land, erect buildings, and make repairs.[141]

DEPENDENTS

A minimum monthly allowance of $12,750 was established for the support of the Soldiers' Home.[142] Admission to this home was extended by two acts: one makes it possible for veterans who are not indigent to live at the home and pay for their support;[143] and the other extends admission to the home to widows of soldiers or sailors if married to them prior to 1890.[144]

Three pension acts were passed. The so-called "Mothers' Pension" provides that widowed mothers may receive not to exceed two dollars a week for each child under fourteen years of age. The act extends to wives of the inmates of institutions under the Board of Control.[145] Cities may establish a firemen's pension to provide pensions for retired or disabled firemen.[146] A pension of $20 per month was granted to survivors of the Spirit Lake Relief Expedition of 1857 to be paid out of the State treasury.[147]

[141] *Laws of the Thirty-fifth General Assembly,* Ch. 17.
[142] *Laws of the Thirty-fifth General Assembly,* Ch. 221.
[143] *Laws of the Thirty-fifth General Assembly,* Ch. 16.
[144] *Laws of the Thirty-fifth General Assembly,* Ch. 220.
[145] *Laws of the Thirty-fifth General Assembly,* Ch. 31.
[146] *Laws of the Thirty-fifth General Assembly,* Ch. 9.
[147] *Laws of the Thirty-fifth General Assembly,* Ch. 348.

An act to prevent frauds in the collection of money for charitable purposes requires all organizations, institutions, or charitable associations soliciting public donations in this State to obtain a license from the Secretary of State. This license may be refused if the Secretary has reason to believe that the funds collected will not be used in the manner designated.[148]

DEFECTIVES

After some years of agitation provision is now made for the establishment of a State colony for epileptics, the object of which is declared to be "the custody, care and treatment of epileptics and the scientific study of epilepsy."[149] It is reported that the Board of Control proposes to purchase 1000 acres of land for this purpose.

The act of the Thirty-fourth General Assembly designed to prevent the procreation of habitual criminals, idiots, feeble-minded, insane, diseased, and degenerate persons was re-written and strengthened; and its provisions were made mandatory upon the Board of Parole and the managing officer and physician of each public institution in the State having the care and custody of such persons.[150]

The law relative to the care of non-resident insane persons was re-written.[151] The transference of an insane patient from a State hospital to a county or private institution, when the expense of maintenance is borne by relative or guardian, is prohibited without the written consent of such relative or guardian.[152]

The age limit for admission to the School for the Deaf was raised. Persons between the ages of five and twenty-one

148 *Laws of the Thirty-fifth General Assembly,* Ch. 138.

149 *Laws of the Thirty-fifth General Assembly,* Ch. 236.

150 *Laws of the Thirty-fifth General Assembly,* Ch. 187.

151 *Laws of the Thirty-fifth General Assembly,* Ch. 183.

152 *Laws of the Thirty-fifth General Assembly,* Ch. 235.

may now be admitted, and persons under thirty-five years of age may be admitted with the consent of the Board of Control.[153]

The per capita support allowed patients at the Tuberculosis Sanitorium was raised from $30 per month to $45 per month;[154] and provision was made for the establishment of a department at this State sanitorium for the treatment of tuberculosis in the case of persons afflicted with pulmonary tuberculosis in advanced stages.[155]

DELINQUENTS

A custodial department was created at the State Hospital for Inebriates, wherein habitual inebriates, or drug habituates, or those considered by the superintendent to be a menace to the maintenance of the discipline of the hospital are kept. All able-bodied patients of the hospital may be required to work and are to be credited with seventy cents per day for their services, fifty cents of which is held for their keep, while twenty cents is to be paid to those dependent on them or to be saved for them until their release.[156]

The industrial schools at Eldora and Mitchellville were established as separate and distinct institutions, the former to be known as the Industrial School for Boys and the latter as the Industrial School for Girls.[157] An act providing for the support of the industrial schools makes a monthly allowance of $13 for each boy and $16 for each girl.[158]

The law as it appears in the *Supplement to the Code, 1907*, relative to the parole of inmates of the Hospital for Inebriates was re-written. It provides that upon being paroled patients must sign a written pledge agreeing to refrain

[153] *Laws of the Thirty-fifth General Assembly*, Ch. 232.
[154] *Laws of the Thirty-fifth General Assembly*, Ch. 237.
[155] *Laws of the Thirty-fifth General Assembly*, Ch. 238.
[156] *Laws of the Thirty-fifth General Assembly*, Ch. 184.
[157] *Laws of the Thirty-fifth General Assembly*, Ch. 230.
[158] *Laws of the Thirty-fifth General Assembly*, Ch. 231.

from the use of all intoxicating liquors and the like, and to avoid frequenting places and the association of people tending to lead them into their old habits. The second section provides that the act shall apply to female patients who have been or shall be committed to a State Hospital for the Insane.[159]

The per capita expenditure for the convicts at Anamosa was increased from $9.50 to $11.50, and for those at Ft. Madison from $9 to $11.[160] The law compelling the breaking of stone by hand at the penitentiary was repealed.[161]

In the interest of compiling more accurate criminal statistics two acts were passed, one requiring the County Auditor to report to the Clerk of the District Court the expenses of the county in criminal prosecutions,[162] and the other requiring the Clerk of the District Court to report annually to the Board of Parole the number of convictions for all crimes and misdemeanors in the court of his county for the previous year. The number of acquittals and the cost to the county for criminal prosecutions[163] are also to be reported.

CORPORATIONS

The first bill introduced in the Senate of the Thirty-fifth General Assembly was next to the last bill of the session to be enacted into law. It was popularly known as the "Blue Sky Bill". Strong influence was brought to bear to keep this bill from passing the House, and probably would have succeeded but for the interference of the Speaker. When put to a vote, however, there were 57 ayes, 12 nays, and 39 recorded as absent or not voting. The law provides for the

159 *Laws of the Thirty-fifth General Assembly,* Ch. 185.
160 *Laws of the Thirty-fifth General Assembly,* Ch. 316.
161 *Laws of the Thirty-fifth General Assembly,* Ch. 318.
162 *Laws of the Thirty-fifth General Assembly,* Ch. 34.
163 *Laws of the Thirty-fifth General Assembly,* Ch. 33.

supervision and regulation of investment companies and requires all persons, companies, or corporations offering stocks, bonds, and securities to obtain a license from the Secretary of State who is vested with discretionary power.[164] One clause in this bill was stricken from it before passage, but through some oversight was not taken from the enrolled copy and it was duly signed and approved by the Governor.

Another corporation act of importance applies to foreign corporations owning, controlling, or operating any public utility in Iowa, requiring all such corporations to be governed by the laws of Iowa in the matter of issuing capital stock and making reports. Such companies are also required to obtain a permit to transact business within the State.[165]

An act amendatory of Section 4612 of the Code provides that witnesses who are attempting to create a trust or combination can not refuse to answer questions on the ground that to do so would incriminate them.[166] Provision was also made for a system of indexing for the records of articles of incorporation in the County Recorder's office.[167]

LEGISLATION AFFECTING RAILROADS

The early railroad promoters often sought and frequently obtained public aid to further their schemes. As a result of evils growing out of such promotion schemes many States prohibited the levying of taxes in aid of railroads. In Iowa it has been possible by a petition of a majority of the resident freeholders in cities to submit to a vote of the people the question of levying a tax in aid of railroads. This law is now amended so as to permit the question to be sub-

[164] *Laws of the Thirty-fifth General Assembly*, Ch. 137.

[165] *Laws of the Thirty-fifth General Assembly*, Ch. 136.

[166] *Laws of the Thirty-fifth General Assembly*, Ch. 295.

[167] *Laws of the Thirty-fifth General Assembly*, Ch. 135.

mitted on a petition of 2000 or more resident freeholders in special charter cities or cities of over 25,000 inhabitants.[168]

Another act in relation to public aid in behalf of railroads provides that taxes not exceeding five per cent on the assessed value of real property may be levied in any district or territory contiguous to any projected trolley or electric road to aid in its construction, or such aid may be given to electrify a steam road.[169]

Four laws were enacted relative to the service of railroads. Every railroad in the State operating a line of over twenty-five miles in length is required to maintain a service of not less than two passenger trains each way every twenty-four hours.[170] At all stations where a telegraph or telephone operator is maintained a bulletin must be posted indicating whether the trains are late or on time and if late the approximate number of minutes.[171]

An act of interest to stock shippers puts the burden of proof upon the carrier to show that the law requiring live stock to be moved at the highest practicable speed consistent with reasonable safety has been obeyed.[172]

Another act provides that railroads shall carry passengers at the rate of one and a half cents a mile to and from fairs that had 75,000 paid admissions the previous year.[173] This act was intended to benefit the State Fair, which is held at Des Moines, but its enforcement is still tied up by injunction proceedings which are pending in the Supreme Court.

Two acts relative to railroad crossings are found in the new legislation. One gives railroads the right to raise or

168 *Laws of the Thirty-fifth General Assembly,* Ch. 168.
169 *Laws of the Thirty-fifth General Assembly,* Ch. 169.
170 *Laws of the Thirty-fifth General Assembly,* Ch. 176.
171 *Laws of the Thirty-fifth General Assembly,* Ch. 166.
172 *Laws of the Thirty-fifth General Assembly,* Ch. 180.
173 *Laws of the Thirty-fifth General Assembly,* Ch. 165.

lower highways at crossings,[174] and the other reënacts the provision requiring railroads to provide crossings over their tracks and giving the Railroad Commissioners power to make orders in cases of disagreement between the parties.[175]

An act which will be of interest to claimants whose patience has been sorely taxed provides that all common carriers must adjust claims within forty days in cases of shipments wholly within the State and within ninety days in cases of shipments without the State.[176]

The general powers of the Railroad Commissioners are increased. They are given power to make orders prescribing improvements and changes to promote the security, convenience, and accommodation of the public.[177] They may grant franchises for the establishment and transmission of electric currents;[178] and they may make adjustments in cases of disagreements between railroad companies and persons, firms, or corporations owning elevators or other buildings on railroad land.[179]

That part of the act of the Thirty-fourth General Assembly prescribing the duties of the commerce counsel is re-written, making him the legal adviser of the Railroad Commissioners.[180]

BANKS AND BANKING

Four statutes relating to banks and banking are of general interest. First, a long act of eleven sections grants additional powers to trust companies, State banks, and savings banks, chief among which is the right to act in a

[174] *Laws of the Thirty-fifth General Assembly,* Ch. 162.
[175] *Laws of the Thirty-fifth General Assembly,* Ch. 163.
[176] *Laws of the Thirty-fifth General Assembly,* Ch. 179.
[177] *Laws of the Thirty-fifth General Assembly,* Ch. 173.
[178] *Laws of the Thirty-fifth General Assembly,* Ch. 174.
[179] *Laws of the Thirty-fifth General Assembly,* Ch. 178.
[180] *Laws of the Thirty-fifth General Assembly,* Ch. 177.

fiduciary capacity the same as a natural person except as to guardianship over persons.[181] Second, State and savings banks are permitted to deposit with the Treasurer of the United States such of the securities of the depositing bank as may be required to secure the postal savings deposited therein.[182] Third, savings banks are permitted to lend money on real estate outside of Iowa, but only in counties adjoining the Iowa State line.[183] Fourth, officers of State and savings banks may receive only a reasonable compensation for their services, but directors may receive only a reasonable compensation to be fixed from year to year and approved by the State Auditor. Such banks are also prohibited from lending money to their officers or directors, except upon the same security as is required of other borrowers.[184]

INSURANCE

Provision was made for the separation of the supervision of insurance from the Auditor's office by the establishment of a Department of Insurance, headed by a Commissioner of Insurance who will be appointed July 1, 1914, by the Governor. He will receive a salary of $3000 per year and will have general control, supervision, and direction of all insurance business transacted in the State, as well as the enforcement of the Iowa insurance laws.[185]

Another act relating to insurance adds to the purposes for which insurance may be written the ability to insure against liability for loss or expense arising or resulting from accidents due to automobiles and other conveyances.[186]

181 *Laws of the Thirty-fifth General Assembly,* Ch. 152.
182 *Laws of the Thirty-fifth General Assembly,* Ch. 151.
183 *Laws of the Thirty-fifth General Assembly,* Ch. 149.
184 *Laws of the Thirty-fifth General Assembly,* Ch. 150.
185 *Laws of the Thirty-fifth General Assembly,* Ch. 146.
186 *Laws of the Thirty-fifth General Assembly,* Ch. 143.

Still another act provides for insurance against sprinkler leakage as well as against fire.[187]

An act entitled "An Act to amend the law relating to the investment of the funds of life insurance companies", provides that mortgages upon real estate shall not be considered as other than a first lien because drainage or other improvement assessments have been levied against it; and in determining the value of real estate for loan purposes the amount of drainage or the assessment tax unpaid shall be deducted.[188]

TRADE AND COMMERCE

An act designed to insure competition in public contracts requires all contracts entered into by any person, firm, or corporation with the State of Iowa or with any county, city, town or school corporation, to declare that the party to whom the contract has been awarded has not directly or indirectly entered into any agreement with any other bidder to secure the contract or destroy free competition.[189]

Unfair discrimination in trade and commerce either in buying or selling between different sections, localities, cities, or towns, is prohibited.[190]

In the interests of trade and commerce cities and towns situated on navigable waterways within the State may create a "Department of Public Docks" to be administered by a board of three persons appointed by the Mayor. This is a long statute describing the plan of organization, powers and duties of the board, tolls, and other details.[191]

Another long act is one providing for the licensing of transient merchants, imposing a license fee of $200 on them,

[187] *Laws of the Thirty-fifth General Assembly,* Ch. 144.
[188] *Laws of the Thirty-fifth General Assembly,* Ch. 145.
[189] *Laws of the Thirty-fifth General Assembly,* Ch. 21.
[190] *Laws of the Thirty-fifth General Assembly,* Ch. 310.
[191] *Laws of the Thirty-fifth General Assembly,* Ch. 74.

and prohibiting them from advertising their wares as being sold as an insurance, bankrupt, railroad wreck, insolvent, fire, or closing out sale, or the like, without filing with the County Auditor an affidavit showing that the character of the sale is as advertised.[192] Farm and garden products are exempted from the provisions of this act. It provides numerous penalties — all in the interest of the local merchant.

Many merchants have found themselves, unknowingly, violating the provisions of the Pure Food Act of 1911, which declared that food products sold in package form are to be considered as misbranded if the package bears any statement of weight or measure which is not the correct net weight or measure of the contents. This law was amended so as to permit reasonable variations of weight or measure under rules to be established by the Dairy and Food Commissioner.[193]

Probably the most important law relative to trade and commerce is an act entitled "An Act to establish legal weight and measures". This statute abolishes the office of Superintendent of Weights and Measures and creates instead the office of Inspector of Weights and Measures — such Inspector to be appointed by the State Dairy and Food Commissioner. By this act the State standards are transferred from Iowa City to Des Moines, and the Department of Physics at the State University is required to assist the commissioner in all matters requiring laboratory facilities or technical knowledge relating to physical measurements.[194] The act declares what the legal weights and measurements shall be. In this connection it will be of interest to the housekeeper to know that the law requires that everything in the way of fruits, vegetables, grain, and

192 *Laws of the Thirty-fifth General Assembly,* Ch. 62.

193 *Laws of the Thirty-fifth General Assembly,* Ch. 307.

194 *Laws of the Thirty-fifth General Assembly,* Ch. 266.

nuts, when sold by the bushel or fractional part thereof, must be sold by weight unless a special agreement in writing has been made to the contrary; and berry boxes must be of an interior capacity of not less than a quart, a pint, or a half-pint dry measure.

LEGISLATION RELATIVE TO AGRICULTURE

Under this heading may be classed a variety of legislation concerning agricultural societies, weeds, live stock, drainage, and pests.

By law it is now provided that the Secretary of the State Fair may ultimately receive $3500 per year if paid from funds derived from the fair.[195]

Another act authorizes the incorporation of an association for the advancement and improvement of agriculture, animal husbandry, and horticulture in each county of the State, and when such a corporation has been formed the Board of Supervisors must submit to the voters of the county a proposition to levy a yearly tax of $5000 for its support.[196] Moreover, the Board of Supervisors is also authorized to submit the question of aiding the county fair by a direct tax not to exceed $1000 per year for not more than ten years for the purpose of erecting or repairing buildings or making other permanent improvements.[197]

Two new weed laws were enacted — probably as much in the interests of good roads as of agriculture. One defines noxious weeds, prescribes the time when they should be cut, places the responsibility for the destruction of such weeds on the owner or occupant of the land, and fixes penalties for refusal or neglect on the part of the officers entrusted with the enforcement of the act.[198] The other act empowers the

[195] *Laws of the Thirty-fifth General Assembly,* Ch. 141.

[196] *Laws of the Thirty-fifth General Assembly,* Ch. 140.

[197] *Laws of the Thirty-fifth General Assembly,* Ch. 142.

[198] *Laws of the Thirty-fifth General Assembly,* Ch. 128.

County Supervisors, as well as the Township Trustees, to cause all noxious weeds to be cut and charge the cost to the owner of the land. It also authorizes the expenditure of road or general funds for the destruction of weeds.[199]

Another act provides for the examination of breeding animals by a qualified veterinarian to determine their soundness and freedom from transmissible diseases.[200] The importation into this State of diseased bees or bee-destroying insects is prohibited.[201]

To protect the hogs of Iowa the State Board of Education is directed to establish at Ames a hog cholera serum laboratory. The sale of the product of this laboratory is regulated as is also that of all other serums offered to stockmen in this State.[202]

An act was passed to prevent fraud in the manufacture and sale of commercial fertilizers.[203]

County Boards of Supervisors may now pay the full amount of damage done to domestic animals by dogs or wolves, whereas they have heretofore been limited to seventy-five per cent of such damage.[204] The bounty on adult wolves was raised from $5 to $20 and on cubs from $2 to $4;[205] and County Supervisors are now authorized to offer a bounty of not to exceed ten cents each on crows killed within the county.[206]

Since the drainage amendment to the Constitution was passed in 1908 a great volume of drainage legislation has been enacted. Whenever the majority of land-owners in

199 *Laws of the Thirty-fifth General Assembly*, Ch. 129.
200 *Laws of the Thirty-fifth General Assembly*, Ch. 188.
201 *Laws of the Thirty-fifth General Assembly*, Ch. 209.
202 *Laws of the Thirty-fifth General Assembly*, Ch. 227.
203 *Laws of the Thirty-fifth General Assembly*, Ch. 202.
204 *Laws of the Thirty-fifth General Assembly*, Ch. 42.
205 *Laws of the Thirty-fifth General Assembly*, Ch. 189.
206 *Laws of the Thirty-fifth General Assembly*, Ch. 190.

any drainage district operating a pump station request it, the Board of Supervisors must make provision for the election of three trustees to manage the same.[207] The compensation of appraisers and commissioners for drainage districts may be increased to four dollars per day.[208] Roads may be assessed for benefits arising out of the creation of drainage districts.[209] In actions involving drainage districts the Board of Supervisors is to represent the drainage district;[210] and the claims of sub-contractors for the construction of drainage ditches are secured by law.[211] Moreover, a few slight verbal changes were made in the law defining nuisances in the construction of drainage ditches;[212] and drainage warrants were made payable for drainage assessments.[213]

LABOR LEGISLATION

The Thirty-fourth General Assembly created an employers' liability commission to "investigate the problem of industrial accidents and especially the present condition of the law of liability for injuries or death suffered in the course of industrial employment as well in this state as in other states", and to "inquire into the most equitable and effectual methods of providing compensation for losses suffered".[214] This commission submitted through its chairman, Senator Clarkson, a measure known as "Employers' Liability and Workmen's Compensation Bill." This measure was so greatly changed before its final passage that it was frequently spoken of as bearing little resemblance to

[207] *Laws of the Thirty-fifth General Assembly,* Ch. 158.
[208] *Laws of the Thirty-fifth General Assembly,* Ch. 159.
[209] *Laws of the Thirty-fifth General Assembly,* Ch. 157.
[210] *Laws of the Thirty-fifth General Assembly,* Ch. 156.
[211] *Laws of the Thirty-fifth General Assembly,* Ch. 155.
[212] *Laws of the Thirty-fifth General Assembly,* Ch. 154.
[213] *Laws of the Thirty-fifth General Assembly,* Ch. 153.
[214] *Laws of the Thirty-fourth General Assembly,* Ch. 205.

the original bill. Nevertheless, the author of the bill is reported as saying that the law as passed represents the principles for which the original bill stood. This is the longest statute enacted by the Thirty-fifth General Assembly and occupies eighteen and a half printed pages in the published laws.

The acceptance of the terms of the act is optional with both employer and employee — except when the State or any of its political subdivisions is the employer, in which case it is compulsory and obligatory upon both employer and employee. If the employer elects to reject the terms of the act, he can not, however, escape liability for personal injuries sustained by his employees on the grounds of the assumption of risk, the fellow-servant rule, or the doctrine of contributory negligence (unless such negligence can be shown to have been willful or the result of intoxication). Where accidents occur, negligence on the part of the employer is presumed and the burden of proof rests on him to show otherwise.

In case the employee rejects the terms of the act, then "the employer shall have the right to plead and rely upon any and all defenses including those at common law, and the rules and defenses of contributory negligence, assumption of risk and fellow-servant shall apply and be available to the employer as by statute authorized unless otherwise provided in this act." The employer, however, is made liable for his own negligence; and he can not by contract with his employees relieve himself from liability for injuries. The act defines many terms and includes a long compensation schedule.

To carry out the provisions of this law the office of Iowa Industrial Commissioner was created. The Commissioner is to be appointed by the Governor for a term of six years and to receive a compensation of $3000 annually. The act

concludes with a scheme of industrial insurance.[215] The validity of this statute has already been questioned and a case involving such validity is now pending in the courts.

The so-called "Arbitration Bill" is another important phase of labor legislation which has found its way into our statute books. This act authorizes the appointment of boards of arbitration and conciliation for the settlement of disputes between employers and employees. The expenses involved in these proceedings are to be borne by the State. If both parties agree to be bound by the decisions of such boards, then the decision is binding for one year.[216]

Two acts relating to ventilation in mines[217] and in buildings[218] in which workmen are employed were passed.

Two acts intended to secure the wages of workmen were passed — one re-writing Section 3093 of the Code protecting owners of buildings against suits by the contractor within thirty days after completion, unless the original contractor can show receipts and waivers (of claims for mechanic's liens);[219] and the other providing that in the payment of claims against the estates of decedents all debts owing to employees for labor performed within ninety days prior to the death of the decedent shall be preferred and paid in full before any other claims filed within six months after the appointment of executors or administrators are paid, and if there is not enough property to pay such claims in full they must be prorated.[220]

The inspection power of the Commissioner of Labor is increased, as is also his salary; and he is given additional assistance, including the appointment of a woman factory

[215] *Laws of the Thirty-fifth General Assembly,* Ch. 147.

[216] *Laws of the Thirty-fifth General Assembly,* Ch. 292.

[217] *Laws of the Thirty-fifth General Assembly,* Ch. 198.

[218] *Laws of the Thirty-fifth General Assembly,* Ch. 306.

[219] *Laws of the Thirty-fifth General Assembly,* Ch. 267.

[220] *Laws of the Thirty-fifth General Assembly,* Ch. 278.

inspector. Employers are required to make record of and report to the Bureau of Labor Statistics all accidents resulting in death, or in disability for more than four days.[221]

EDUCATION

The school laws of the State — long in need of revision — were pretty well overhauled by the Thirty-fifth General Assembly. The school age was raised from fourteen to sixteen years;[222] and a minimum wage for teachers in the public schools was established by law.[223] To the qualifications of teachers was added "at least twelve weeks of normal training".[224]

Graduates of schools and colleges of other States of equal rank with those in Iowa may be given certificates to teach in this State without examination upon filing evidence of at least two years' successful experience as teacher, principal, or superintendent.[225]

The teaching of elementary agriculture, domestic science, and manual training will be required in the public schools of Iowa after July 1, 1915, and the State Superintendent may prescribe the extent of such instruction and include these subjects in examinations for teachers' certificates.[226]

A few verbal changes are made in the law of the Thirty-fourth General Assembly relating to the payment of tuition of pupils attending high schools located in other districts,[227] but no school corporation situated in a county maintaining a county high school shall be required to pay the tuition of pupils at any school other than the county high school.[228]

221 *Laws of the Thirty-fifth General Assembly,* Ch. 196.
222 *Laws of the Thirty-fifth General Assembly,* Ch. 255.
223 *Laws of the Thirty-fifth General Assembly,* Ch. 249.
224 *Laws of the Thirty-fifth General Assembly,* Ch. 243.
225 *Laws of the Thirty-fifth General Assembly,* Ch. 226.
226 *Laws of the Thirty-fifth General Assembly,* Ch. 248.
227 *Laws of the Thirty-fifth General Assembly,* Ch. 239.
228 *Laws of the Thirty-fifth General Assembly,* Ch. 240.

The amount of State aid paid to high schools approved by the State Superintendent and giving normal courses for the training of teachers was raised from $500 per year to $750 per year.[229] State aid is also to be given to consolidated schools equipped to teach agriculture and home economics or other industrial and vocational subjects.[230] The law relating to the conducting of normal institutes was re-written. The law no longer requires that such institutes shall remain in session for at least six days. The County Superintendent may now conduct a four to six weeks' summer school when deemed advisable.[231]

The amount of indebtedness which independent school districts may incur is increased from four per cent to five per cent of the actual value of the taxable property,[232] and the amount that may be levied in the teachers' and contingent funds was also increased.[233] The State Auditor must hereafter lend the school fund in sums of $5000 instead of $3000.[234]

The salary of the school treasurer was abolished, and he is required to deposit all funds at interest at the rate of at least two per cent per annum on ninety per cent of the daily balances for the benefit of the school corporation.[235] To the duties of the secretary of independent, town, or city school districts the duty of filing monthly financial statements is added.[236]

It will be recalled that in the discussion of the short ballot legislation mention was made of the fact that both

[229] *Laws of the Thirty-fifth General Assembly,* Ch. 242.
[230] *Laws of the Thirty-fifth General Assembly,* Ch. 250.
[231] *Laws of the Thirty-fifth General Assembly,* Ch. 225.
[232] *Laws of the Thirty-fifth General Assembly,* Ch. 10.
[233] *Laws of the Thirty-fifth General Assembly,* Ch. 251.
[234] *Laws of the Thirty-fifth General Assembly,* Ch. 258.
[235] *Laws of the Thirty-fifth General Assembly,* Ch. 247.
[236] *Laws of the Thirty-fifth General Assembly,* Ch. 246.

the Superintendent of Public Instruction and the County Superintendent have been removed from the list of elective officers.

The State Superintendent is authorized to publish and distribute the school laws every four years if he deems such distribution necessary.[237] The directors of each school corporation are required to provide a suitable flag staff on each public school building; and a suitable flag shall be raised over such building on all days when the weather permits.[238] There is, however, no penalty for refusal or neglect to comply with this act.

Public school pupils are forbidden the use of tobacco in any form.[239]

Most of the legislation relating to higher education is provided for in the appropriation bills — with the exception of the law reëstablishing the chairs in the College of Homeopathic Medicine at the State University,[240] and the act providing that plans for new buildings for educational institutions must be prepared by the State Architect.[241]

PRACTICE OF THE LEARNED PROFESSIONS

The law relating to the practice of dentistry was rewritten.[242] In the practice of law residents of Iowa may be admitted to practice in this State without examination upon submission of satisfactory proof of not less than one year's regular practice in the State in which he was admitted to the bar.[243] An act declares what constitutes unprofessional conduct on the part of physicians and provides for the revocation of certificates by the State Board of Medical Ex-

237 *Laws of the Thirty-fifth General Assembly,* Ch. 256.
238 *Laws of the Thirty-fifth General Assembly,* Ch. 244.
239 *Laws of the Thirty-fifth General Assembly,* Ch. 241.
240 *Laws of the Thirty-fifth General Assembly,* Ch. 223.
241 *Laws of the Thirty-fifth General Assembly,* Ch. 326.
242 *Laws of the Thirty-fifth General Assembly,* Ch. 218.
243 *Laws of the Thirty-fifth General Assembly,* Ch. 37.

aminers of those found guilty of such conduct. Fee-splitting is declared to be unprofessional conduct.[244]

DOMESTIC RELATIONS

The liability for family expenses is limited to such as are reasonable and necessary.[245] The annulment of marriage, where the service of the original notice was made by publication in the manner provided by law for action for divorce,[246] is legalized; and it is now possible to begin an action for the annulment of an illegal marriage by publication if the defendant is a non-resident of this State or his residence is unknown.[247] Persons solemnizing marriages must now make a report of the same within fifteen days.[248]

CRIMINAL LAW

The criminal laws of the State were amended and expanded in numerous instances. The intent to commit a burglary by the use of explosives is made punishable the same as if it had been actually committed.[249] What is commonly known as "joy riding" is declared to be trespass and malicious mischief, and is punishable by fine and imprisonment.[250] The stealing of poultry is now a felony, whether committed by day or night.[251] (Formerly it was a felony only if committed at night.)

The law relating to escapes from the penitentiary or reformatory, including the violation of parole, was re-written and strengthened.[252] Severe penalties are imposed upon

[244] *Laws of the Thirty-fifth General Assembly,* Ch. 214.
[245] *Laws of the Thirty-fifth General Assembly,* Ch. 271.
[246] *Laws of the Thirty-fifth General Assembly,* Ch. 270.
[247] *Laws of the Thirty-fifth General Assembly,* Ch. 285.
[248] *Laws of the Thirty-fifth General Assembly,* Ch. 269.
[249] *Laws of the Thirty-fifth General Assembly,* Ch. 298.
[250] *Laws of the Thirty-fifth General Assembly,* Ch. 299.
[251] *Laws of the Thirty-fifth General Assembly,* Ch. 300.
[252] *Laws of the Thirty-fifth General Assembly,* Ch. 301.

any one found guilty of bringing or attempting to bring narcotics, liquors, and articles which may be used in making an escape to inmates of the State institutions.[253]

It is made an indictable offense for either male or female to solicit for purposes of prostitution.[254]

Fraudulent advertising is made a misdemeanor,[255] and punishment is provided for any one desecrating, mutilating, or improperly using the flag of the United States or the State of Iowa.[256]

Persons camping on the public highway for the purpose of trading horses are declared to be vagrants and may be punished as such.[257]

TAXATION AND APPROPRIATIONS

The Thirty-fourth General Assembly created a temporary tax commission for the purpose of securing information looking toward a complete revision of the tax laws of the State. This commission submitted a report, and a bill embodying its recommendations was introduced in the Thirty-fifth General Assembly but failed of passage.

The Thirty-fifth General Assembly of Iowa established a record in the matter of appropriations. In order to provide funds out of which to meet these expenditures it was necessary to materially increase the State tax levy — the Executive Council being directed to fix the rate so as to yield $2,800,000 in each of the years 1913 and 1914.[258]

Legislators are quick to recognize that increases in the tax levy or in the valuation of property are not as a rule popular with their constituents; and yet they are constantly

253 *Laws of the Thirty-fifth General Assembly,* Ch. 302.
254 *Laws of the Thirty-fifth General Assembly,* Ch. 304.
255 *Laws of the Thirty-fifth General Assembly,* Ch. 309.
256 *Laws of the Thirty-fifth General Assembly,* Ch. 308.
257 *Laws of the Thirty-fifth General Assembly,* Ch. 312.
258 *Laws of the Thirty-fifth General Assembly,* Ch. 320.

confronted with problems of how to raise sufficient revenue to meet the growing needs of the State. The difficulty will be partly solved if the joint resolution, which proposes a constitutional amendment declaring that the General Assembly may for the purpose of providing revenue for State purposes provide for the exclusive taxation of certain classes of property and when so taxed for State purposes they shall not be otherwise taxed for general county, township, or municipal purposes, becomes in due time a part of the fundamental law of the State.[259]

The largest single appropriation measure, which is known as the appropriation act for "state and judicial officers, state and other expenses" and is sometimes designated as the Omnibus Bill, carries a total for the ensuing biennial period of $639,757.39 — an increase of $68,696.03 over that of the Thirty-fourth General Assembly. A new provision, however, is included which requires that money unexpended on July 1, 1915, shall revert to the State treasury.[260]

The statute relating to taxation and appropriation, which has caused most comment and no little criticism, is the act providing for the extension and improvement of the State capitol grounds at Des Moines. This law provides for the levying of a tax that will yield $150,000 annually for a period of ten years. In order, however, to obtain the benefits of this tax at once it was provided that the Executive Council might anticipate the collection thereof by issuing interest-bearing warrants.[261] Suits have been begun in several counties of the State to resist the collection of this tax on constitutional grounds.

The framers of the Iowa Constitution were frugal men who did not believe in the creation of debts, and so they

[259] *Laws of the Thirty-fifth General Assembly,* House Joint Resolution, No. 4.

[260] *Laws of the Thirty-fifth General Assembly,* Ch. 321.

[261] *Laws of the Thirty-fifth General Assembly,* Ch. 14.

limited the State indebtedness to $250,000, except in time of war or great public danger. It is therefore claimed that the anticipation of the tax would create a debt in excess of the constitutional limit, and two District Judges have so held. One judge held that the whole act was therefore invalid; while the other held that only the one section was unconstitutional. The question is now pending in the Supreme Court.

In anticipation, no doubt, of the necessity of condemnation proceedings and litigation in connection with capitol extension two acts were passed. One provides that in taking private property for the uses of the State, Sheriffs' juries shall be selected by the Chief Justice of the Supreme Court and that not more than one member of such jury shall be resident in the same county.[262] The other provides that where property is taken for the use of the State either party is entitled to a change of venue to the nearest District Court outside of the county in which the property is located.[263]

Property leased to the State will no longer be exempt from taxation.[264]

TAXATION AND APPROPRIATIONS FOR STATE INSTITUTIONS

For the institutions under the Board of Control a half-mill tax was levied for a period of five years to provide a fund for the erection and improvement of buildings, for the purchase of land and for establishing and maintaining industries in these institutions.[265] To the construction, repair, improvement, and contingent funds of these institutions there was appropriated the sum of $600,555.[266] And

262 *Laws of the Thirty-fifth General Assembly,* Ch. 161.

263 *Laws of the Thirty-fifth General Assembly,* Ch. 160.

264 *Laws of the Thirty-fifth General Assembly,* Ch. 116.

265 *Laws of the Thirty-fifth General Assembly,* Ch. 17.

266 *Laws of the Thirty-fifth General Assembly,* Ch. 323.

to the support funds of the Soldiers' Home and the penal and reformatory institutions $34,500 was added.[267]

The Thirty-fifth General Assembly was liberal in making appropriations to the educational institutions of the State. A half-mill tax was levied for a period of two years for the purpose of creating a fund for the further equipment and support of extension work, experimentation, and collegiate and non-collegiate courses of study at the Iowa State College of Agriculture and Mechanic Arts.[268] This act contemplates the expenditure of $377,500 for each of the two years. In addition to the proceeds of this millage tax the college at Ames receives $125,000 "as an emergency fund to be used as an additional fund for the construction of a chemistry building and the equipment of the same, and the purchase of laboratory supplies",[269] and also shares in the general appropriation for the educational institutions to the extent of $92,000.[270]

The State University received for additional annual general support the sum of $99,000, of which $69,000 goes for general support, $15,000 for University extension work, $10,000 for the repair and contingent fund, and $5,000 for an epidemiologist and laboratory; and for improvements, equipment, land, etc., the sum of $155,000 for the biennial period.[271]

The State Teachers College received $40,000 for additional annual support, and $6,800 for furniture and paving;[272] while the College for the Blind received $41,500 for additional annual support and $68,000 for equipment, remodeling, and extensions.[273]

[267] *Laws of the Thirty-fifth General Assembly,* Ch. 322.
[268] *Laws of the Thirty-fifth General Assembly,* Ch. 228.
[269] *Laws of the Thirty-fifth General Assembly,* Ch. 329.
[270] *Laws of the Thirty-fifth General Assembly,* Ch. 328.
[271] *Laws of the Thirty-fifth General Assembly,* Ch. 328.
[272] *Laws of the Thirty-fifth General Assembly,* Ch. 328.
[273] *Laws of the Thirty-fifth General Assembly,* Ch. 328.

All of the appropriations made payable annually to the educational institutions of the State will be drawn monthly hereafter instead of quarterly as heretofore.[274]

MISCELLANEOUS APPROPRIATIONS

The sum of $75,000 was appropriated for a woman's and children's building on the State fair grounds;[275] $40,000 was devoted to the prosecution of interstate rate cases;[276] $10,000 was appropriated to assist in celebrating the fiftieth anniversary of the battle of Gettysburg;[277] $3,000 was set aside for the Iowa Veterans' Home Coming;[278] $4,000 additional annual support was given to the State Historical Society;[279] and numerous minor appropriations were voted for other purposes.

Several acts were passed granting municipal and local governments the right to levy taxes for specific purposes.

CEMETERIES

Most of the acts mentioned were passed in the interest of the living. The General Assembly, however, did not forget the dead. The obligation of municipal and local governments to accept and administer money or property left to them by bequest to be used in caring for the property of the donor in any cemetery has already been mentioned. In addition, cities, towns, and townships are authorized to levy a one-mill tax for the support and maintenance of a cemetery after it has been abandoned and no longer used as a burial ground.[280] Private cemetery associations are empowered to condemn land for cemetery purposes;[281] and

274 *Laws of the Thirty-fifth General Assembly,* Ch. 324.
275 *Laws of the Thirty-fifth General Assembly,* Ch. 325.
276 *Laws of the Thirty-fifth General Assembly,* Ch. 334.
277 *Laws of the Thirty-fifth General Assembly,* Ch. 335.
278 *Laws of the Thirty-fifth General Assembly,* Ch. 336.
279 *Laws of the Thirty-fifth General Assembly,* Ch. 327.
280 *Laws of the Thirty-fifth General Assembly,* Ch. 50.
281 *Laws of the Thirty-fifth General Assembly,* Ch. 139.

the property of cemetery associations is now exempted from taxation.[282]

IMPORTANT MEASURES NOT PASSED

This survey of the legislation enacted by the Thirty-fifth General Assembly would be incomplete without mentioning in conclusion some of the more important measures which failed of enactment. This General Assembly refused to recommend to Congress a resolution to amend the Constitution of the United States providing for the direct election of the President of the United States and a resolution favoring the prohibition of polygamy. It also refused to sanction resolutions to amend the State Constitution providing for an income tax, making future amendments easier, and resubmitting the prohibitory amendment.

County officers endeavored to have their terms of office extended to four years, but without success. The following are briefly some of the more important subjects upon which the General Assembly failed to enact legislation: a direct inheritance tax, a permanent tax commission, a public utilities commission, judicial procedure, hard surfaced roads, trusts, loan sharks bill, uniformity of school books, teachers' pensions, prison reform, State traveling men's vote, the intermarriage of negroes and whites, and normal schools.

The contest over the coördination policy of the State Board of Education left no record in the laws owing to the action of the Board in rescinding its own resolution.

FRANK EDWARD HORACK

THE STATE UNIVERSITY OF IOWA
IOWA CITY

[282] *Laws of the Thirty-fifth General Assembly,* Ch. 117.

SOME PUBLICATIONS

The Man with the Iron Hand. By JOHN CARL PARISH. Boston: Houghton Mifflin Co. 1913. Pp. xiv, 289. Plate. Price, $1.25 net. The appearance of this fascinating volume marks the launching of a new series of historical publications, known as *True Tales of the Great Valley,* under the editorship of Benjamin F. Shambaugh, Superintendent of The State Historical Society of Iowa. The plan of this series is to present in vivid, narrative form the drama of history as it was enacted on the great stage of the Mississippi Valley from the time of the coming of the French down to the middle of the nineteenth century. "Viewing this pageant of the past," says the editor in his introduction, "let us write the true tales of the Great Valley as we write romance — with life, action, and color — that the history of our Great Valley may live."

In the present volume Dr. Parish tells the romantic story of the coming of the first Frenchmen to explore the Mississippi Valley, of Marquette and Joliet, La Salle, Hennepin, and Duluth. The central figure, however, is Henry de Tonty, the heroic follower and trusted companion of La Salle, whose Indian name furnishes the title for the volume. The tale is told from a unique standpoint — that of the red skinned savages who saw these forerunners of the white invasion penetrating into the very heart of their domains. It is told with vividness, with color, and with imagination. And yet there is no fiction in the book. The narrative, based in every detail on original sources, is written with as careful a regard for truthfulness and accuracy as is the most learned historical monograph, and will stand the test of critical verification. It is history in story form and it will be read and enjoyed and remembered in many cases where history for history's sake would make no appeal.

George Rogers Clark Papers, 1771–1781 (*Collections of the Illinois State Historical Library,* Vol. VIII). Edited with introduction and notes by JAMES ALTON JAMES. Springfield: Illinois State

Historical Library. 1912. Pp. clxvii, 715. Portraits. This large volume will prove of great value to students of the Revolution in the West. The extended introduction by Professor James constitutes one of the most satisfactory accounts of the operations of George Rogers Clark which has thus far appeared. The papers, which consist chiefly of letters, are classified into thirteen chapters.

Clark and the West before the Revolution, the preliminaries to the Revolution in the West, the capture of Kaskaskia and the capitulation of Vincennes, the capture of Vincennes by Hamilton, a letter from Clark to George Mason, extracts from the journals of Bowman and Clark, Clark's *Memoir* from 1773 to 1779, the establishment of civil government and plans for the capture of Detroit, Clark's return to the Falls of the Ohio, the establishment of a post at the mouth of the Ohio, Clark's expedition against the Shawnee, the agreement of Washington and Jefferson to coöperate in sending an expedition against Detroit, and the failure of the plans for an expedition against Detroit, are the subjects covered in the various chapters.

The documents are carefully edited and there is no lack of footnotes explaining obscure passages or supplementing the text at different points. Following the text of the documents there is a list of the works used in the preparation of this volume and a list of the documents themselves. A good index renders the volume easily usable for reference purposes.

The Granger Movement: A Study of Agricultural Organization and its Political, Economic and Social Manifestations, 1870–1880. By Solon Justus Buck, Ph. D. Cambridge: Harvard University Press. 1913. Pp. xi, 384. Maps, charts. Dr. Buck, in this volume, deals in a scholarly manner with a very interesting subject. While the work covers the entire United States in its scope it deals especially with the Granger movement in Illinois, Wisconsin, Minnesota, and Iowa, since it was in these great agricultural States that the movement assumed its largest proportions. The author wishes it to be remembered that the book "is not intended to be a history of the 'Grange,' as the order of Patrons of Husbandry is frequently called."

The nine chapters in the book deal with fundamental conditions, organization, the Granger movement as a political force, Granger railway legislation (three chapters), business coöperation, social and educational features, and conclusion. An extensive and well classified bibliography and a comprehensive index complete the volume. Footnote references to sources are plentiful and the book is written in a clear, readable style.

The Color Line in Ohio: A History of Race Prejudice in a Typical Northern State. By Frank U. Quillin, Ph. D. Ann Arbor, Michigan: George Wahr. 1913. Pp. xvi, 178. Maps. This monograph which is a doctorate dissertation constitutes a volume in the *University of Michigan Historical Studies.* The work is divided into two parts, the first of which is devoted to historical development. There are seven chapters in this part, dealing respectively with the feeling toward the negro shown in the constitutional convention of 1802, the legal status of the negro from 1802 to 1849, the repeal of the black laws, the social position of the negro from 1802 to 1849, the feeling toward the negro as expressed in the constitutional convention of 1850–1851, legal status from 1850 to 1912, and social status from 1850 to 1912.

The six chapters of part two describe present day conditions as concerns the negro in the five cities of Cincinnati, Dayton, Springfield, Columbus, and Cleveland, and in the small town of Syracuse. Two criticisms of the form of the monograph offer themselves: no page numbers are given in the table of contents and the index is inadequate.

AMERICANA

GENERAL AND MISCELLANEOUS

Thomas Paine: The Patriot is the subject of an address by A. Outram Sherman, which has been printed in pamphlet form.

A pamphlet published in May by the American Society for Judicial Settlement of International Disputes contains a discussion of *Precedent and Codification in International Law,* by Paul S. Reinsch.

Obed Hussey, Who, of all Inventors, Made Bread Cheap is the subject of a biography by Follett L. Greeno of Rochester, New York.

The Year Book of the Carnegie Endowment for International Peace for 1912 contains the reports of officers, committees, and directors of divisions.

A volume of *Biographical Notices of Graduates of Yale College,* compiled by Franklin Bowditch Dexter, has been issued as a supplement to the *Obituary Record.*

Organizing the Peace Work, by Edwin Ginn; and *Internationalism Among Universities,* by Louis P. Lochner, are pamphlets recently issued by the World Peace Foundation.

Volume sixty-one, number six of the *Smithsonian Miscellaneous Collections* consists of an illustrated monograph on *Great Stone Monuments in History and Geography,* by J. Walter Fewkes.

The publications of State historical societies will be found indexed in the *Annual Magazine Subject-Index,* 1912, edited by Frederick Winthrop Faxon and published by the Boston Book Company.

A List of Portraits and Pieces of Statuary in the Virginia State Library, with Biographical Notes, compiled by Earl G. Swem, appears in the *Bulletin* issued in April by the Virginia State Library.

The *Ninth Annual Report of the Library Board of the Virginia State Library* contains, besides the regular reports, part two of the *List of the Revolutionary Soldiers of Virginia,* prepared by H. J. Eckenrode.

In an article on *The Virginia Mountaineers* which appears in the July number of *The South Atlantic Quarterly* John H. Ashworth contradicts many of the statements which are so prevalent concerning the backward condition of these people. Charles Wallace Collins discusses *Contemporary British Criticism of the Fourteenth Amendment.* Two other articles are: *The Beginnings of the North Carolina City Schools, 1867–1887,* by Charles L. Coon; and *The Function of the College,* by David Martin Key.

The Library of Congress has issued a *Calendar of the Papers of John Jordan Crittenden,* prepared from the original manuscripts in the Library of Congress by C. N. Feamster. The calendar itself occupies nearly three hundred pages and there is an elaborate index.

Two pamphlets issued in July and August, respectively, by the American Association for International Conciliation are: *American Love of Peace and European Skepticism,* by Paul S. Reinsch; and *The Relations of Brazil with the United States,* by Manoel de Oliveira Lima.

Some *Notes on the Intervention in Mexico, 1861–7,* by James Parker, are to be found in the July number of the *Journal of the United States Cavalry Association.* Among the contributions in the September number is an article on *The San Patricio Battalion in the Mexican War,* by G. T. Hopkins.

The April number of the *Proceedings of the American Philosophical Society* contains the following papers of interest from the standpoint of history or of political science: *The Historical Value of the Patriarchal Narratives,* by George A. Barton; *Suetonius and his Biographies,* by John C. Rolfe; and *The Treaty Obligations of the United States Relating to the Panama Canal,* by Charlemagne Tower.

A recent number of the *Johns Hopkins University Studies in Historical and Political Science* consists of a monograph on *The Free Negro in Virginia, 1619–1875,* by John H. Russell. The five chapters deal, respectively, with the number and distribution of the free negroes, the origin of the free negro class, manumission, the legal status of the free negro, and the social status of the free negro.

Marginal Utility and Marginal Disutility as Ultimate Standards of Value, by Charles E. Persons; *The Commodity Clause Legislation and the Anthracite Railroads,* by Eliot Jones; *Original Cost Versus Replacement Cost as a Basis for Rate Regulation,* by Hammond V. Hayes; and *The Marginal Productivity Versus the Impatience Theory of Interest,* by Harry G. Brown, are articles in *The Quarterly Journal of Economics* for August.

In the July number of the *Bulletin of the New York Public Library* there may be found the proceedings of the *Memorial Meeting in Honor of the Late Dr. John Shaw Billings, April 25, 1913,* and a *List of Works Relating to the History and Condition of the Jews in Various Countries,* which is continued in the August and September numbers. In the August number there is also *The Minimum Wage: A Preliminary List of Selected References.*

Some Seventeenth Century Diaries and Memoirs, by C. H. Firth; *Four Representative Documents of Scottish History,* by P. Hume Brown; *The Trade of Orkney at the End of the Eighteenth Century,* by W. R. Scott; *A Sixteenth Century Rental of Hoddington,* by C. Cleland Harvey; and *The Origin of the Convention of the Royal Burghs of Scotland,* by Theodora Keith, are articles in the July number of *The Scottish Historical Review.*

The seventeenth volume of the *Review of Historical Publications Relating to Canada,* edited by George M. Wrong and W. Stewart Wallace, has been issued by the University of Toronto. The reviews are classified under such headings as the relations of Canada to the Empire; the history of Canada; provincial and local history; geography, economics, and statistics; archaeology, ethnology, and folk-lore; and law, education, and ecclesiastical history.

Among the contributions in the *Journal of the American Institute of Criminal Law and Criminology* for July are: *A Working Program for an Adequate System of Collecting Criminal Statistics in Illinois,* by Arthur J. Todd; and *Present Day Aims and Methods in Studying the Offender,* by William Healy. In the September number Maurice Parmelee describes *A New System of Criminal Procedure,* and Charles Richmond Henderson discusses the *Control of Crime in India.*

A Tale of Labor's Struggles and its Conflict with Industrial and Political Corruption, by Samuel Gompers, is the leading article in the *American Federationist* for August. The September number opens with a symposium on *Constructive Trade Unionism: Its Wonderful Achievements, Told by Those who Know.* Two articles are:

Modern Economics, by James Duncan; and *Ethics of the Labor Movement,* by John B. Lennon. In this number there is also a digest of *Labor Legislation for the Past Year Reported by State Federations.*

Among the articles in *The Survey* during the past quarter are the following: *Pennsylvania's Industrial Revolution,* by Fred S. Hall; *Industrial Commission of Ohio,* by S. Gale Lowrie; *Efficiency and the Rural School,* by Laura H. Wild (July 19); a symposium on *The Constructive Work Before the Industrial Relations Commission* (August 2); *Accident Compensation for Federal Employes,* by I. M. Rubinow (August 16); *The Massachusetts Act for the Prevention of Accidents and Industrial Diseases,* by F. W. Taussig (September 20).

Among the principal articles in the *National Municipal Review* for July are: *The New York Subway Contracts,* by Delos F. Wilcox; *The New York Police Situation,* by Clement J. Driscoll; *The Vital Points in Charter Making from a Socialist Point of View,* by Carl D. Thompson; and *Instruction in Municipal Government in the Universities and Colleges of the United States,* by William Bennett Munro. There is also a brief sketch of the workings of *The Initiative, Referendum and Recall in San Francisco,* by E. A. Walcott.

In the *Proceedings of the American Antiquarian Society* at the annual meeting held in Worcester on October 16, 1912, there is a paper on *The Records of the Council for New England,* by Clarence S. Brigham; an address on the history of the Society, by Charles Grenfill Washburn; and an address on *Democracy and the Constitution,* by Andrew Cunningham McLaughlin. This is the centennial issue of the *Proceedings.* The Society has issued a large volume of nearly six hundred pages containing the *Proceedings of the American Antiquarian Society, 1812–1849.*

The Crux of the Currency Question, by A. Piatt Andrew, is the opening contribution in the *Yale Review* for July. In an article entitled *What the Ten-Year Sergeant of the Police Tells,* Henry H. Curran discusses the police situation in New York City. *Historic Universities in a Democracy* is the subject of a paper by Anson

Phelps Stokes, Jr. In a discussion of *The High Cost of Living* Avard Longley Bishop points out, among other things, the relation between the high cost of living and the cost of high living. *Climates of the Past* is an article by Charles Schuchert.

How a Little City is Progressing Under a City Commissioner, by Alvin T. Embrey; *Some Legal Aspects of the Sale of Municipal Bonds,* by A. L. H. Street; and *Not a Single Tax,* by Charles T. Root, are articles in the July number of *The American City.* In the August number there is a brief sketch of *Progressive Charters for Ohio Cities,* by H. S. Gilbertson; and an outline of *Commission Government for all Third-Class Cities of Pennsylvania,* by A. M. Fuller. *Some Serious Weaknesses of the Commission Plan* are pointed out by H. S. Gilbertson in the September issue.

The Railway Library, 1912, compiled and edited by Slason Thompson, has made its appearance. Among the papers and addresses in the volume are: *James J. Hill's "Great Adventure",* which is Hill's valedictory to the stockholders of the Great Northern Railroad; *Experience of a Railroad Commissioner,* by John B. Olmsted; *The Country's Need of Greater Railway Facilities,* by James J. Hill; *The Minnesota Rate Cases,* being the opinion of Justice Hughes; *Railway Nationalization,* by F. H. Dent; *Are We Ready for Industrial Coöperation?,* by Fairfax Harrison; and *Railroad Building, Service and Revenue,* by L. E. Johnson.

Elasticity of Credit and Currency, by J. Lawrence Laughlin; *Vice, Crime, and the New York Police,* by Lyman Beecher Stowe; *Progressive Law-Making in Many States,* by William B. Shaw; and *The Ohio Law for Workmen's Compensation,* by George F. Durba, are articles in the July number of *The American Review of Reviews.* Two contributions in the August number are: *What Americans Talk in the Philippines,* by Maurice P. Dunlap; and *Making a Valuation of Our Railways,* by Judson C. Welliver. In the September number among the articles are: *France a Centralized State,* by Jesse Macy; *What the Pageant Does for Local History,* by Herbert T. Wade; *"The Invisible Government" Under Searchlight,* by John C. O'Laughlin; and *Yuan Shih-kai, Master of China,* by Carl Crow.

The July number of *The American Journal of Sociology* contains, among other articles, the following: *The New England Conscience — A Study in Moral Perception,* by Louis Wallis; *The Rural Social Center,* by Henry S. Curtis; and *The Southern Sociological Congress,* by L. L. Bernard. In the September number Alfred H. Lloyd writes on *Five Great Battles of Civilization;* Charles H. Cooley discusses *The Sphere of Pecuniary Valuation;* Laura Clarke Rockwood points out *A Woman's Handicap in Efficiency;* and Maurice Parmelee suggests *An Introductory Course to the Social Sciences.*

Judicial Interpretation of the Minimum Wage in Australia, by M. B. Hammond; *Pensions as Wages,* by Albert de Roode; and *The Rates and Practices of Express Companies,* by Arthur S. Field, are articles in the June number of *The American Economic Review.* The September number opens with *A Classification of Pools and Associations Based on American Experience,* by William S. Stevens. Other articles are: *Possible Complications of the Compensated Dollar,* by J. M. Clark; *Monopoly and Competitive Prices,* by Eugene E. Agger; and *Farm Credit in a Northwestern State,* by Meyer Jacobstein. A supplement to the September number contains the constitution of the American Economic Association and a list of the members.

A subject of general and vital interest, namely, *The Cost of Living,* is discussed in the July number of *The Annals of the American Academy of Political and Social Science.* The various articles are grouped under four heads: wage standards, family standards, public services and control, and measures for reducing the cost of living. Among the contributors are Henry R. Seager, William Draper Lewis, Samuel McCune Lindsay, Simon N. Patten, Mrs. Charlotte Perkins Gilman, Ida M. Tarbell, Irving Fisher, Albert Shaw, and Martha Van Rensselaer. The September number of the *Annals* is devoted to *The Negro's Progress in Fifty Years.* The topic is discussed by numerous writers, including Booker T. Washington and W. E. Burghardt Du Bois, under three general divisions: business activities and labor conditions, social conditions and problem, and educational progress and need.

Among the many papers and addresses contained in the *Report of the Nineteenth Annual Lake Mohonk Conference on International Arbitration,* held in May, 1913, are the following: *Arbitration as a Means for the Promotion of International Justice,* by Lyman Abbott; *The Mission of the Mohonk Conference — Past, Present, and Future,* by James Brown Scott; *A Century of Anglo-American Diplomatic Relations,* by James M. Callahan; *How to Root Out the Causes of War,* by Charles W. Eliot; *The Treaty Obligations of the United States Relating to the Panama Canal,* by Charlemagne Tower; and *Treaty Obligations and Protection of Aliens,* by George Grafton Wilson.

The June number of *Americana* opens with an article on *The Road to the Bouwerij,* by Hopper Striker Mott, which is continued in the two succeeding numbers. Some *Recollections of the Prison Life of Jefferson Davis at Fortress Monroe, Virginia,* written by Lemuel Shipman, are contributed by William J. Dietrich; while Duane Mowry contributes several *Letters of General Edward S. Bragg to Senator James R. Doolittle.* In the July number John Howard Brown presents a brief sketch of the life of *Judah Touro, the Philanthropist.* The August number contains a biographical sketch of *Louis Joseph, Marquis de Montcalm,* by Francis M. Kieron. In all three numbers there are continuations of Brigham H. Roberts' *History of the Mormon Church.*

The June number of the *American Labor Legislation Review* contains the proceedings of the first American Conference on Social Insurance, held in Chicago on June 6 and 7, 1913. The papers read at the conference are: *The Problem of Social Insurance: An Analysis,* by William F. Willoughby; *Sickness Insurance,* by I. M. Rubinow; *Insurance Against Unemployment,* by Charles Richmond Henderson; *Pensions for Mothers,* by Edward T. Devine; *Old Age Pensions,* by F. Spencer Baldwin; *Systems of Wage-Earners' Insurance,* by Frederick L. Hoffman; *Advantages of Compulsory State Insurance,* by Thomas J. Duffy; *Advantages of Casualty Company Insurance,* by P. Tecumseh Sherman; and *Superiority of Compulsory Mutual Insurance,* by Miles M. Dawson.

Three articles are to be found in *The American Political Science Review* for August, namely: *Courts and Legislation,* by Roscoe Pound; *The Drift in French Politics,* by J. Salwyn Schapiro; and *The Authority of Vattel,* by Charles G. Fenwick. Among the *Notes on Current Legislation* are the following more or less extended discussions: *A New Departure in County Government: California's Experiment with Home Rule Charters,* by E. J. Miller; *Ohio Model Charter Law,* by S. Gale Lowrie; *Tax Legislation, 1913,* by A. C. Pleydell; *Workmen's Compensation,* by Horace E. Flack; *Illinois Legislature,* by John A. Fairlie; *Public Utilities,* by John A. Lapp; and *Legislative Reference,* by Ethel Cleland.

The *Proceedings of the Dedication of the New York State Education Building, Albany, October 15, 16, 17, 1912,* have been printed in an attractive, illustrated volume. Among the addresses to be found in the volume are the following: the Chancellor's address, by Whitelaw Reid; *The Library in its Relation to Education and Social Service,* by John Christopher Schwab; *The State Museum and State Progress,* by Henry Fairfield Osborn; *The Development of Elementary Schools in the State of New York,* by William H. Maxwell; *The Evolution of the Public High School,* by William J. S. Bryan; *Carrying Knowledge to the People,* by Charles Richard Van Hise; *The Private Schools; Their Place in American Life,* by William Starr Myers; *Preparation for the Professions,* by Henry S. Pritchett; *The Value of Historical Studies to the Higher Learning,* by Canon H. Hensley Henson; and the dedicatory address, by the late Andrew C. Draper.

Beginning with the January-April number, 1913, a new periodical known as *The Quarterly Journal of the Society of American Indians* made its appearance under the editorship of Arthur C. Parker. The magazine, as the name implies, is the official organ of the Society of American Indians, which was organized in 1911 and which recently held its third annual conference at Denver, Colorado. The headquarters of the Association are in Washington, D. C. Among the articles in the initial number of the *Quarterly* are: *The Race Awakening,* by Washington Gladden; *The Indian-*

American — His Duty to his Race and to his Country, by Sherman Coolidge; *An Apache Problem,* by John M. Oskison; *The Teaching of Ethnology in Indian Schools,* by J. N. B. Hewitt; and *Some Facts and Figures on Indian Education,* by Laura Cornelius Kellogg. The April-June number contains the proceedings of the second annual conference, held at Columbus, Ohio, in October, 1912. At this conference there were many interesting papers and addresses, dealing with conditions on the reservations and with other problems confronting the American Indians. The magazine is creditable both in appearance and contents, and the Society is receiving deserved commendation and encouragement in all parts of the country.

WESTERN

The Climate and Weather of San Diego, California, is described by Ford A. Carpenter in a little book published by the San Diego Chamber of Commerce.

A brief essay on *Papago Verb Stems,* by Juan Dolores, was published in August as a number of the *University of California Publications in American Archaeology and Ethnology.*

Soldiers and Their Deeds is the title of a pamphlet compiled by W. Straley, which contains brief sketches of the military achievements of a number of Confederate soldiers. The pamphlet is published at Hico, Texas.

The third volume of the *History of Nebraska from the Earliest Explorations to the Present Time with Portraits, Maps, and Tables,* written by Albert Watkins, has appeared. The book was printed by The Torch Press at Cedar Rapids, Iowa.

Supposed Diary of President Lincoln from the Repeal of the Missouri Compromise in 1854 Until April 14, 1865, is the title of a little book by Milton R. Scott which was privately published at Newark, Ohio. The author "lays no claim to an imitation of Mr. Lincoln's peculiar style of speech and composition; he only hopes that he has revealed the mind and soul of the great President in some measure at least."

The July-September number of the *Bulletin of the Indiana State Library* contains a short sketch of the duties and activities of the Department of Indiana History and Archives of the Indiana State Library, by Harlow Lindley.

Among the articles in the April-June number of *The American Antiquarian and Oriental Journal* are the following: *Beliefs of the Aborigines of America,* by T. C. Thomas; *Fort Osco of the Alleghans,* by Grace Ellis Taft; and *Antediluvian Airships — The Fall of Icarus Not a Myth,* by Charles Hallock.

Two recent numbers in *Green's Historical Series,* compiled and published by Charles R. Green of Olathe, Kansas, are: *In Keokuk's Time on the Kansas Reservation,* which is of special interest to Iowans; and *Along the Santa Fe Trail, Council City, 1854–5, Superior, 1856, and Burlingame, 1856–64.*

Volume eleven, part three of the *Anthropological Papers of the American Museum of Natural History* consists of a monograph on the *Societies of the Crow, Hidatsa and Mandan Indians,* by Robert H. Lowie. There are two parts, the first dealing with the military societies of the Crow Indians, and the second with the societies of the Hidatsa and Mandans.

The opening contribution in *The Quarterly Journal of the University of North Dakota* is an article by O. G. Libby on *Political Factions in Washington's Administrations.* Wallace Nelson Stearns discusses briefly *The Exile and Its Effect upon the Hebrew People.* Other articles are: *The New Individualism,* by Andrew Alexander Bruce; and *Antiochus Epiphanes Epimanes,* by William Joseph Trimble.

Volume one, number two of the *University of California Publications in History,* issued in March, contains a monograph on *The Viceroy of New Spain,* by Donald E. Smith. An historical introduction, the relations of the Viceroy with the home government, the Viceroy as governor, the Viceroy as captain-general, the Viceroy as vice-patron, the reforms of Galvez, and conclusions are the subjects covered in the seven chapters.

The London Session of the International Congress of Historical Studies is described by Bernard Moses in *The University of California Chronicle* for July. The same writer also discusses *The Relation of the United States to the Philippine Islands.* Another contribution is an article on *The Long Ballot as a Cause of Political Corruption,* by Thomas H. Reed.

The *Twenty-Eighth Annual Report of the Bureau of American Ethnology* contains, besides the report of the chief of the bureau, the following papers, which are profusely illustrated: *Casa Grande, Arizona,* by Jesse Walter Fewkes; *Antiquities of the Upper Verde River and Walnut Creek Valleys, Arizona,* by the same author; and a *Preliminary Report on the Linguistic Classification of Algonquian Tribes,* by Truman Michelson.

IOWANA

The Creed of General Washington, by G. W. Baird, is an article which appears in the August number of *The American Freemason.*

A *Bulletin of the State University of Iowa* issued in July contains a *Bibliography of the Publications of the University and Its Members,* compiled by M. G. Wyer.

The Minutes of the Congregational Conference of Iowa for the year 1913 contains, among other things, a number of biographical sketches of deceased members.

Among the articles in the July number of *Iowa Factories* are the following: *Progress and the Banker,* by J. A. S. Pollard; *The Old vs. the New Type of Business Management,* by T. W. Mitchell; and *Government Investigation of Private Industry,* by L. V. Estes.

Glasgow's *Municipal Philosophy,* by Frank Putnam; *Washington Utility Commission Overruled,* being the opinion of Judge R. B. Albertson; a digest of *New Iowa Municipal Laws;* and *The Municipal Reference Library in Toronto,* by Dora Spears, are articles in the July number of *American Municipalities.* The August number contains, among other things, a list of *Iowa Cities Under Mulct Law.*

Jeannette M. Drake discusses the *Relation of the Public Library to Social Betterment* in the January-March number of the *Iowa Library Quarterly*. In the April-June number there is an account of the *Library Legislation of the Thirty-fifth General Assembly*.

When the Old Bridge Went Down: A Story of the Passing of the Old Mud Roads, by Grace Boteler Sanders; and *Financing a System of State Highways,* by S. E. Bradt, are articles in *The Road-Maker* for August. An address by President Woodrow Wilson on the subject of good roads is printed in the September number.

In *The Northwestern Banker* for July there is an article on the *Clearing House Basis for the New Monetary System,* by James G. Cannon. In the August number James B. Forgan presents a *Review of the Banking and Currency Bill;* and there is a discussion of the same subject by George M. Reynolds under the heading of *The Administration Currency Bill.*

The July issue of *Autumn Leaves* contains the third number in the series of articles on *Government,* by S. A. Burgess; and the fifth installment of the article on the *Religious Beliefs of the American Indians,* by H. A. Stebbins. The concluding installment of the latter article is to be found in the August number, where there is also an editorial on *President Wilson's Message to the Indians.*

The July number of the *Journal of History* published at Lamoni by the Reorganized Church of Jesus Christ of Latter Day Saints opens with the first installment of *A History of the Seventy,* by James F. Mintun. Heman C. Smith contributes the first of a series of articles dealing with *Travels,* in which he pays considerable attention to the history of the regions visited. The remaining pages are taken up with continuations of biographical and autobiographical sketches.

SOME RECENT PUBLICATIONS BY IOWA AUTHORS

Alden, Cynthia May Westover,
Ways of Earning Money. New York: Sully and Kleinteich. 1913.

Betts, George Herbert,

Social Principles of Education. New York: Charles Scribner's Sons. 1913.

Brigham, Johnson,

James Harlan. Iowa City: The State Historical Society of Iowa. 1913.

Brown, Charles Reynolds,

The Quest of Life and Other Addresses. Boston: The Pilgrim Press. 1913.

Butler, Ellis Parker,

The Jack-Knife Man. New York: Century Co. 1913.

Devine, Edward T.,

The Family and Social Work. New York: Association Press. 1913.

Franklin, William Suddards,

An Elementary Treatise on Calculus. Bethlehem, Pennsylvania: Published by the author. 1913.

Garretson, A. S.,

Primitive Christianity and Early Criticisms. Boston: Sherman, French & Co. 1913.

Hillis, Newell Dwight,

The Quest of Happiness (New Edition). New York: The Macmillan Co. 1913.

The Message of David Swing to his Generation. New York and Chicago: Fleming H. Revell Co. 1913.

Lectures and Orations by Henry Ward Beecher. New York and Chicago: Fleming H. Revell Co. 1913.

The Story of Phaedrus: How We Got the Greatest Book in the World. New York: The Macmillan Co. 1913.

Hough, Emerson,

The Lady and the Pirate. New York and Indianapolis: The Bobbs-Merrill Co. 1913.

Young Alaskans in the Rockies. New York: Harper and Brothers. 1913.

Myers, Harriet Williams,

The Birds' Convention. Los Angeles: Western Publishing Co. 1913.

Parish, John Carl,
The Man with the Iron Hand. Boston: Houghton Mifflin Co. 1913.

Parrish, Randall,
The Maid of the Forest. Chicago: A. C. McClurg and Co. 1913.

Quaife, Milo M.,
Chicago and the Old Northwest. Chicago: The University of Chicago Press. 1913.

Rogers, Julia Ellen,
The Book of Useful Plants. Garden City: Doubleday, Page & Co. 1913.

Sabin, Edwin L.,
Treasure Mountain; or, the Young Prospectors. New York: Thomas Y. Crowell Co. 1913.

Seashore, Carl Emil,
Psychology in Daily Life. New York: D. Appleton & Co. 1913.

Shambaugh, Benjamin F. (Editor),
The Man with the Iron Hand (True Tales of the Great Valley Series). Boston: Houghton Mifflin Co. 1913.

Stapp, Emilie Blackmore,
The Squaw Lady. Philadelphia: David McKay. 1913.

Steiner, Edward A.,
The Parable of the Cherries. New York and Chicago: Fleming H. Revell Co. 1913.

SOME RECENT HISTORICAL ITEMS IN IOWA NEWSPAPERS

The Register and Leader

War Songs of Fifty Years Ago, July 4, 1913.

Harrowing Tama County Ghost Tales Revived, by F. A. Muirhead, July 6, 1913.

A Story of Gettysburg, by J. H. McConlogue, July 6, 1913.

William H. Shipley — Des Moines Veteran Who Knew Lincoln Personally, by S. W. Baker, July 6, 1913.

Story of Making of Mormon Trail in Iowa, August 3, 1913.

Tales of Early Iowa Banditti and Early Iowa Counterfeiter, by O. H. Mills, July 13, 1913.

Mathew F. King of Keokuk Tells War Story in Diary, July 27, 1913.

John Brown's Forces Recruited and Trained in Cedar County, July 27, 1913.

Trip of First Railway Mail Car Ended at Clinton, August 3, 1913.

Our Vanishing Wild Life, August 6, 1913.

The Passing of Buffalo Bill, August 7, 1913.

George C. Sims, Des Moines Pioneer, Writes Book of Army Life, August 10, 1913.

Beginning of the End of the Mississippi Banditti, by O. H. Mills, August 10, 1913.

Hiram B. Hatch, Picturesque Early Des Moines Figure, August 17, 1913.

Iowa Campaign of Thirty Years Ago, August 19, 1913.

Stories of the Old Frontier, August 24 and 31, and September 7, 14, and 21, 1913.

Prof. E. W. Beard, Pioneer Educator, by Florence A. Armstrong, September 7, 1913.

Opposition to Capitol Extension Recalls Fight on Building of the Present Statehouse, September 14, 1913.

Indian Legend Made Famous the Ground on Which Arsenal Now Stands, September 14, 1913.

State Fair Thirty Years Ago, September 15, 1913.

Captain Francis R. West, a Pioneer, by L. F. Andrews, September 21, 1913.

Thirty Years Ago on the Farm, September 25, 1913.

The Burlington Hawk-Eye

In Old Burlington. (In each Sunday issue.)

Sketch of life of S. A. McKee, July 2, 1913.

Francis M. Johnson, an Iowa Veteran of the Civil War, July 6, 1913.

First Book About Iowa, July 6, 1913.

The Work of Warden J. C. Sanders, July 13, 1913.

Three Old Landmarks in Burlington, July 13, 1913.

A Des Moines County Soldier in the Civil War, by R. M. Hartzell, July 20, and August 10, 17, 24, 1913.

A Burlington Railroad that Failed to Reach its Original Destination, August 17, 1913.

Historical Review of the Keokuk Water Power Legislation and Construction, August 31, 1913.

Howard Elliott Once Got $40 per Month and is Earning $100,000 a Year, September 7, 1913.

Fort Madison and Its Part in Westward Expansion, September 14, 1913.

Lysander W. Babbitt, Prominent Pioneer of Burlington and Marion County, September 21, 1913.

Iowa Wesleyan's Seventy-Second Year, September 21, 1913.

Sketch of life of John F. Lacey, September 30, 1913.

HISTORICAL SOCIETIES

PUBLICATIONS

Old Salem Street, by Helen Tilden Wild, is the principal article in the July number of *The Medford Historical Register.*

Who Wrote the Declaration of Independence?, by William M. Van der Weyde, is a pamphlet published by the Thomas Paine National Historical Association.

Cherokee Marital Laws is the subject of a brief article by John Springston which appears in the July number of *Historia,* published by the Oklahoma Historical Society.

The *Annual Report of the Connecticut Historical Society* contains the reports presented at the annual meeting in May, 1913, together with lists of officers and members.

Original Papers, No. 7, published by the Wisconsin History Commission consists of a volume entitled *A Narrative of Service with the Third Wisconsin Infantry* written by Julian Wisner Hinkley.

Volume one, number two of the *Publications of the Onondaga Historical Association* is entirely devoted to a biographical list of the *Revolutionary Soldiers of Onandaga County, N. Y.,* compiled by W. M. Beauchamp.

The July number of the *Historical Collections of the Essex Institute* opens with some *Youthful Recollections of Salem,* by Benjamin F. Browne. Genealogical material and continuations occupy the remaining pages.

A pamphlet issued by the Paine Memorial Association contains a record of the exercises at the *Rededication of the Paine Monument and Assignment of its Custody to the City of New Rochelle,* compiled by James B. Elliott.

The second volume of reprints published by the Wisconsin History Commission contains the *Civil War Messages and Proclamations of Wisconsin War Governors,* edited by Reuben Gold Thwaites in collaboration with Asa Currier Tilton and Frederick Merk.

The *Year Book of the Holland Society of New York* for 1913 contains the usual list of officers and members, reports on the condition and activities of the Society, and banquet proceedings; and, in addition, the records of *The Reformed Protestant Dutch Church of Bergen in New Jersey.*

The New England Historical and Genealogical Register for July opens with a memoir of the late *David Floyd,* by Channing Howard. Besides the purely genealogical material which occupies the greater part of the number there is a brief article on *Eminent Nova Scotians of New England Birth,* by Arthur Wentworth Hamilton Eaton.

Chapter three of the biographical sketch of *Friedrich Armand Strubberg,* by Preston A. Barba; *The American Indian in German Fiction,* by the same author; and a continuation of *The German Drama in English on the Philadelphia Stage,* by Charles F. Brede, make up the contents of the May-August number of the *German American Annals.*

A Prehistoric "Cannibal" House in Nebraska, by Robert F. Gilder; *American Prehistory — The Hut Foundations of Colcha in Bolivia,* by G. Courty; *The Philistines and Ancient Crete,* by Robert C. Horn; and *Cayuga and Seneca as Proprietaries in the Annals of New York,* by Grace Ellis Taft, are articles in the May-June number of the *Records of the Past.*

In an article on the *Organization and Service of the Frontier Guards,* which appears in the April number of the *Annals of Iowa,* Charles B. Richards describes the means adopted to protect the northern frontier of Iowa against Indian depredations after the Spirit Lake Massacre. *A Biography of Hon. Charles John Alfred Ericson* is written by Charles L. Dahlberg. The remaining contribution is the *Journal of A. W. Harlan While Crossing the Plains in 1850.*

The New Madrid and Other Earthquakes in Missouri, by Francis A. Sampson; *Life and Influence of Danville and Danville Township,* by Olive Baker; *Missouri's Eleven State Capitols,* by Cornelius Roach; *The Columbia Library, 1866–1892,* by Henry O. Severance; and *Hon. John Brooks Henderson,* by Francis A. Sampson, are articles in the July number of the *Missouri Historical Review.*

Bohemia: Mission of St. Francis Xavier, Cecil County, Maryland, by E. J. Devitt; *Marriage Registers of Holy Trinity Church of Philadelphia, Pa., A. D. 1791–1799,* edited by Thomas Cooke Middleton; and a continuation of the *Life of Bishop Comwell of Philadelphia,* by the late Martin I. J. Griffin, are contributions in the June number of the *Records of the American Catholic Historical Society.*

A Biographical Sketch of Judge Wilson Primm, by William Clark Breckenridge; an article on the *History of St. Louis,* written many years ago by Wilson Primm; some documentary material relative to *Ezekiel Williams' Adventures in Colorado;* and a continuation of the *Recollections of an Old Actor,* by Charles A. Krone, are contributions in volume four, number two of the *Missouri Historical Society Collections.*

A third installment of the *Letters and Reports of the Rev. John Philip Boehm,* translated and edited by William J. Hinke, occupy the opening pages of the *Journal of the Presbyterian Historical Society* for September. George H. Ingram presents part three of the *History of the Presbytery of New Brunswick.* The concluding article is a brief sketch of *The Religious Revival at Bridgeton, N. J., in 1817,* by Jonathan Freeman.

The April-June and July-September numbers of the *Quarterly Publication of the Historical and Philosophical Society of Ohio* are combined and contain a number of *Documents Relating to Zachariah Cox,* edited by Isaac Joslin Cox, assisted by Reginald C. McGrane. The chief of these documents is a pamphlet relating to commerce in the West in the early days. There are also a number of letters written by or to John Sevier.

The July number of the *Journal of the Illinois State Historical Society* opens with an address on *Benjamin Lundy, Pioneer of Freedom,* by George A. Lawrence. *The Plans of the Illinois State Historical Library with Special Reference to the Care of Public Archives* are outlined by Evarts Boutell Greene. *An Old Time Tragedy in the State Penitentiary at Alton* is described by W. T. Norton, who also writes on *Early Libraries in Illinois.*

Volume thirteen of the *Publications of the Mississippi Historical Society,* edited by Franklin L. Riley, is devoted to monographs on the subject of reconstruction in various counties in Mississippi. The four monographs in the volume are: *Reconstruction in Panola County,* by John W. Kyle; *Reconstruction in Scott County,* by Forrest Cooper; *Reconstruction in Lafayette County,* by Miss Julia Kendel; and *Reconstruction in Oktibbeha County,* by F. Z. Browne.

Articles which appear in *The Washington Historical Quarterly* for July are: *Independence Day in the Far Northwest,* by George W. Soliday; *The Story of Three Olympic Peaks,* by Edmond S. Meany; *Stories and Sketches from Pacific County,* by Isaac H. Whealdon; and *Did Daniel Webster Ever Say This?,* by C. T. Johnson. Under the heading of *Documents* there is printed a letter written by John Tyler to his son on December 23, 1845, in which mention is made of the Oregon question.

The July number of *The South Carolina Historical and Genealogical Magazine* opens with a genealogical article on *The Brisbanes,* compiled by E. Haviland Hillman. The history of *Some Forgotten Towns in Lower South Carolina* is briefly sketched by Henry A. M. Smith. The remainder of the *Magazine* is taken up with continuations of the *Register of St. Andrew's Parish, Berkeley County, South Carolina,* copied and edited by Mabel L. Webber; and the *Order Book of John Faucheraud Grimké.*

The only article in the December, 1912, number of *The Quarterly of the Oregon Historical Society* is one by Clarence B. Bagley on the *Transmission of Intelligence in Early Days in Oregon.* The remaining pages are taken up with documents, among which are

the *Journal of John Work, Covering Snake Country Expedition of 1830–31,* edited by T. C. Elliott; and some letters written by Rev. and Mrs. H. H. Spalding shortly after completing their journey across the continent to Fort Walla Walla in 1836.

Floyd B. Streeter is the writer of a sketch of *The Diplomatic Career of William Carmichael* which opens the *Maryland Historical Magazine* for June. In this same number Bernard C. Steiner contributes the first of a series of articles on *Van Buren's Maryland Correspondents.* The leading article in the September number is a biographical sketch of *Jacob Hall, Surgeon and Educator, 1747–1812,* by J. Hall Pleasants. In both numbers there are continuations of the *Letters of Rev. Jonathan Boucher.*

Continuations of *New Mexican Spanish Folk-Lore,* by Aurelio M. Espinosa; and *Songs and Rhymes from the South,* by E. C. Perrow, are the principal contributions in the April-June number of *The Journal of American Folk-Lore.* In the July-September number John R. Swanton presents some *Animal Stories from the Indians of the Muskhogean Stock.* W. H. Mechling relates some *Maliseet Tales;* and there is an article on *The Principle of Limited Possibilities in the Development of Culture,* by A. A. Goldenweiser.

The second installment of the monograph on *The Louisiana-Texas Frontier,* by Isaac Joslin Cox, appears in *The Southwestern Historical Quarterly* for July. *Some Extracts from the Diary of W. Y. Allen, 1838–1839,* are edited by William S. Red. Peculiar interest attaches to a letter written by Manuel Lisa on September 8, 1812, to the Spaniards of New Mexico, which, together with an introduction by Herbert E. Bolton, is printed under the heading, *New Light on Manuel Lisa and the Spanish Fur Trade.* Finally, there is another installment of the *Correspondence from the British Archives Concerning Texas, 1837–1846,* edited by Ephraim Douglass Adams.

The Minnesota Historical Society has issued the first number in a series of monographs on *The Weathering of Aboriginal Stone Artifacts.* The present volume is devoted to *A Consideration of the*

Paleoliths of Kansas, by N. H. Winchell. The first chapter contains a general discussion of the subject; while the succeeding seven chapters deal with the cultural stages of stone chipping correlated with glacial stages, the tribes met in the Kansas valley by Coronado in 1541, early man and his contemporary fauna in Kansas, critical working observations on some Kansas specimens, the work of Dr. W. Allen Sturge in England, a classification of Kansas artifacts by culture stages, and an archaeological reconnoissance. There are numerous plates and figures.

The *Orderly Book of Harrisburg Volunteer Company of Artillery, Capt. Richard M. Crain, 1814,* occupies the opening pages in *The Pennsylvania Magazine of History and Biography* for April. Then follows a continuation of the interesting *Journal of James Kenny, 1761–1763,* edited by John W. Jordan. In the July number the first contribution is an address on *The Building of the Fleet,* delivered by Francis Newton Thorpe at Erie, Pennsylvania, on the occasion of the Perry Victory Centennial Commemoration. *The Crisis in the Early Life of General Peter Muhlenberg* is described by William Germann. There are some *Early Letters from Pennsylvania,* written by George Haworth to members of his family in England; and some *Selections from the Correspondence of Col. Stephen Maylan, of the Continental Cavalry.*

With the June number *The Indiana Magazine of History* passed from under the management of Mr. George S. Cottman, its founder, who has carried on the enterprise for more than eight years. Hereafter the magazine will be published under the direction of the History Department of Indiana University, in coöperation with the Indiana Historical Society and the Indiana State Library. Dr. Logan Esarey will be the managing editor. The contributions in this number of the *Magazine* are: *The Achievements and Possibilities of History,* by James T. Shotwell; *The Moravian Mission Near Anderson,* by Jacob P. Dunn; *Life in Indiana, 1800–1820,* by Rolla M. Hogue; *Sketches of Early Indiana Senators — Waller Taylor, 1816–1825,* by Nina Kathleen Reid; and *Indian Captives in Early Indiana,* by Logan Esarey.

Life in *The Early French Settlements on the Great Lakes* is described by John M. Bulkley in the opening pages of the *Ohio Archaeological and Historical Quarterly* for July. Samuel W. Williams presents an interesting account of *The Tammany Society in Ohio.* In a brief statement relative to *Old Fort Sandoski of 1745,* G. Frederick Wright replies to the criticisms of Charles A. Hanna in respect to the inscriptions on the tablets erected on the site of the old fort. Then follows the *Speech of Richard Douglas, Esq., of Chillicothe,* delivered before the Whig convention in Columbus, Ohio, in February, 1836. Two other contributions contain the proceedings at the unveiling of the *Fort McArthur Memorial Tablet* on July 4, 1913; and an account of the *Unveiling of Fort Recovery Monument* on July 1, 1913, together with the addresses delivered on that occasion.

The German-American Historical Society of Illinois has abandoned the publication of the quarterly which was known as the *Deutsch-Amerikanische Geschichtsblätter.* The first number of the *Jahrbuch der Deutsch-Amerikanischen Historischen Gesellschaft von Illinois,* which will be published hereafter instead of the quarterly, has appeared, the editor being Julius Goebel. Among the papers in this volume, some of which are in German and others in English, are the following: *Christoph von Graffenried and the Founding of New Bern, N. C.,* by Vincent H. Todd; *Briefe Deutscher Auswanderer aus dem Jahre 1709,* by Julius Goebel; *Die Erste Deutsche Einwanderung in das Mississippital: Eine kritische Würdigung,* by Alexander Franz; *The Germans of Chicago and Stephen A. Douglas in 1854,* by F. I. Herriott; *A Political Prophecy of the Forty-Eighters in America,* by Julius Goebel, Jr.; *Die Anfänge Deutscher Einwanderung in Nordamerika,* by Otto Lohr; *Lincoln and German Patriotism,* by Paul Selby; and *Quincys Gründung und das Deutsche Element in der Entwickelung der Stadt,* by Heinrich Bornmann.

ACTIVITIES

The International Society of Archaeologists held its annual convention in St. Louis during the last week in September.

The Historical Society of Marshall County has made plans for a series of meetings to be held during the coming winter. The first meeting was held on October 24th, at which time Dr. Benj. F. Shambaugh, Superintendent of The State Historical Society of Iowa, gave the address.

At the annual meeting of the Illinois State Historical Society held on May 15 and 16, 1913, the following officers were elected: Honorary President, Clark E. Carr; President, Otto L. Schmidt; Secretary and Treasurer, Jessie Palmer Weber. The membership in the society now numbers over thirteen hundred.

The Missouri Historical Society now occupies its magnificent new home — the Jefferson Memorial Building, erected by the Louisiana Purchase Exposition Company on land donated by the city of St. Louis. The Society is making a special effort to collect a library of books, pamphlets, and documents relating to Thomas Jefferson.

The twenty-eighth annual meeting of the Ohio Archaeological and Historical Society was held at Columbus on May 23, 1913. It is expected that the new building which is to be the home of the Society will be ready for occupancy this fall. The building committee of the Society also has charge of the erection of the Hayes Memorial Museum and Library Building at Fremont. The election of officers resulted as follows: G. F. Wright, President; G. F. Bareis, First Vice President; D. J. Ryan, Second Vice President; E. O. Randall, Secretary and Editor; E. F. Wood, Treasurer; and W. C. Mills, Curator and Librarian. On June 24, 1913, Governor Cox appointed ex-Governor Myron T. Herrick and ex-Governor James E. Campbell members of the Board of Trustees of the Society for the term of three years.

THE STATE HISTORICAL SOCIETY OF IOWA

Mr. Henry J. Peterson, a member of the Society, who for the past few years has been an instructor in the Department of Government in the Iowa State Teachers' College at Cedar Falls, is spending the present academic year in graduate study at the State University of Iowa.

Death came to three members of the Society during the past summer, namely: Mr. C. R. Benedict of Shelby, Iowa; former State Senator C. A. Carpenter of Columbus Junction, Iowa; and Major John F. Lacey, of Oskaloosa, Iowa.

The Society will put to press in the near future a volume on the history of the Quakers in Iowa, written by Mr. Louis T. Jones, who occupied the position of Research Assistant in the Society during the past year. Mr. Jones has recently removed to Florida.

Dr. Clarence R. Aurner, Research Associate in The State Historical Society of Iowa, is the writer of an article entitled *Iowa a Debtor to Horace Mann,* which appears in the *Journal of Education* of October 2, 1913. Dr. Aurner is engaged in writing a comprehensive history of education in Iowa.

The Society has recently acquired the records and papers of the Fremont Voters' Association of the First Congressional District of Iowa. This unique association held its last meeting at Keokuk on August 26, 1913, at which time it was voted to disband the organization on account of the dwindling number of members.

Mr. Jacob Van der Zee, Research Associate in The State Historical Society of Iowa, has been appointed as an Instructor in the Department of Political Science at the State University of Iowa. Dr. Dan E. Clark, Assistant Editor in the Society, has been appointed Lecturer in Iowa History in the same department.

The biography of James Harlan written by Mr. Johnson Brigham, State Librarian of Iowa, has been distributed to members. It is a book of about four hundred pages. Owing to the fact that Senator Harlan was well known to a great many people still living the biography will doubtless appeal to a large circle of readers.

The following persons have recently been elected to membership in the Society: Mr. Walter H. Beall, West Union, Iowa; Mr. Geo. L. Gillies, Ottumwa, Iowa; Mr. J. T. Hackworth, Ottumwa, Iowa; Mr. Arthur Metcalf, Webster City, Iowa; Mr. Steve A. O'Brien, Mason City, Iowa; Mr. F. W. Simmons, Ottumwa, Iowa; Mr. I. A.

Andrew, Ottumwa, Iowa; Mr. J. M. Jones, Shelby, Iowa; Mr. William F. Cleveland, Harlan, Iowa; Mr. W. O. Phipps, Bagley, Iowa.

Dr. John Carl Parish of Denver, Colorado, who for many years was Assistant Editor in The State Historical Society of Iowa, is the author of a volume entitled *The Man with the Iron Hand* which has been brought out by the Houghton Mifflin Company of Boston. The book is the first of a series to be known as *True Tales of the Great Valley,* edited by Dr. Benj. F. Shambaugh, the Superintendent of The State Historical Society of Iowa.

NOTES AND COMMENT

A separate Department of Political Science has been created at the University of Minnesota.

Judge Chester C. Cole, a veteran and much honored jurist of Iowa, died at his home in Des Moines on October 4, 1913.

The forty-eighth annual reunion of the Early Settlers' Association of Dubuque County was held on Thursday, August 7, 1913.

The eleventh annual convention of the Iowa State Manufacturers' Association was held August 6–8, 1913, at Keokuk.

The sixteenth annual convention of the League of Iowa Municipalities was held at Marshalltown on September 23, 24, 25, 1913.

Professor Paul S. Reinsch of the Department of Political Science in the University of Wisconsin has been appointed American Minister to China.

Dr. Charles H. Meyerholz, head of the Department of Government in the State Teachers' College at Cedar Falls, Iowa, has resumed his work after a year's leave of absence spent at Harvard University.

A law was passed in Ohio at the last session of the legislature permitting certain incorporated associations to acquire prehistoric monuments and sites in the same manner as private property may be appropriated by municipal corporations.

The three Harris political science prizes for the year 1912–1913 were awarded to students in the University of Minnesota, Purdue University, and the University of Wisconsin. The prizes for the year 1913–1914 will be offered for the best essays on the judicial review of administrative decisions, county and township government, or the relation of the State to the municipality.

The library school of the Wisconsin Library Commission, in co-operation with the University of Wisconsin, offers a course in "Library Administration and Public Service", which is evidently intended chiefly as a training for legislative and municipal reference librarians.

At the last session of the legislature of Illinois a commission was appointed to make plans for the celebration in 1918 of the centennial of the State into the Union. Among the members of the commission are Edmund J. James, Evarts B. Greene, J. W. Garner, Otto L. Schmidt, and Jessie Palmer Weber.

Three new bureaus have been established in the Extension Division of the State University of Iowa, namely: a Bureau of Public Administration, a Bureau of Municipal Information, and a Bureau of Social Welfare. Mr. Orie E. Klingaman, formerly of Des Moines, will have charge of the first two bureaus, while the third will be conducted by Dr. Ralph E. Heilman, formerly of Harvard University. It is planned to establish several other bureaus in the near future.

JOHN F. LACEY

John F. Lacey was born at New Martinsville, West Virginia, on May 30, 1841. In 1855 he came to Iowa with his parents, who settled at Oskaloosa. When the Civil War broke out Mr. Lacey enlisted in the northern army and served with distinction, rising rapidly in rank. After the war he entered politics. He served as State Representative in the Thirteenth General Assembly, and later he represented Iowa in the lower house of Congress from 1889 to 1891 and from 1893 to 1907. Major Lacey was much interested in the subject of conservation and a number of laws on this subject originated with him. He died at his home in Oskaloosa on September 29, 1913.

CONTRIBUTORS

LILLIAN MAY WILSON, Student at University of Chicago. Born at Pleasant Plains, Jefferson County, Iowa. Childhood and youth passed in Decatur County, Iowa. Attended the Leon High School, St. Johns Academy at Garden Grove, Iowa, and the State University of Nebraska.

JACOB VAN DER ZEE, Research Associate in The State Historical Society of Iowa, and Instructor in Political Science in the State University of Iowa. (See THE IOWA JOURNAL OF HISTORY AND POLITICS for January, 1913, p. 142.)

FRANK EDWARD HORACK, Assistant Professor of Political Science in the State University of Iowa. Secretary of The State Historical Society of Iowa. Born in Iowa in 1873. Graduated from the State University of Iowa in 1897. Studied in Germany. Received the degree of Ph. D. from the University of Pennsylvania. Author of *Constitutional Amendments in Iowa, The Organization and Control of Industrial Corporations, The League of Iowa Municipalities, A Brief History of the Political Science Club, Primary Elections in Iowa, The Government of Iowa,* and *The Work of the Thirty-fourth General Assembly of Iowa.*

AN INDEX

TO THE

IOWA JOURNAL OF HISTORY AND POLITICS

VOLUME ELEVEN

1913

INDEX

NOTE — The names of contributors of articles in THE IOWA JOURNAL OF HISTORY AND POLITICS are printed in SMALL CAPITALS. The titles of books, articles, and papers referred to are printed in *Italics*.

Abbot, Edwin H., Jr., article by, 116
Abbott, Edwin M., article by, 113
Abbott, Lyman, article by, 610
Abbott, Mrs. L. C., 298
Abbott, Wilbur C., article by, 272
Aberdeen, Lord, letters of, 295
Abernethy, Alonzo, article by, 342
Abert, Colonel, 73
"Abilition Holes", Marking the Old, 466
Aborigines of America, Beliefs of the, 613
Absolutism, Legalized, en Route from Greece to Rome, 131
Accidents, industrial, law relative to, 588-590; report of, 591
Accidents and Industrial Diseases, The Massachusetts Act for the Prevention of, 607
Accountants, expert, 557
Actions, trial of, 426
Actor, Old, Recollections of an, 622
Actuary tables, 436
Adams, Charles F., address by, 291; article by, 465
Adams, Edward H., 473
Adams, Ephraim D., article by, 129, 461, 624; academic work of, 138; reference to, 295
Adams, George P., article by, 283
Adams, John Q., interests represented by, 150; war on supporters of, 151; reference to, 317
Adams County, historical society in, 285
Addams, Jane, article by, 116, 117
Administration, Public, Bureau of, 631
Advertising, fraudulent, punishment for, 595
African Prince, Stories of an, 462
Agency, Sac and Fox, Hunt at, 539
Agger, Eugene E., article by, 609
Agricultural Credit in the United States, 115
Agricultural Development in the United States, 1900-1910, 115
Agricultural machinery, pioneer, 459
Agricultural societies, incorporation of, 586
Agriculture, A Primer of, 123
Agriculture, promotion of, 24; advocates of, 62; conditions of, in South, 149; success of, in Iowa, 225; Hungarian attempts at, 516; laws relative to, in Iowa, 586-588; elementary, teaching of, 591
Agriculture, Department of, fees collected by, 557
Agriculture and Mechanic Arts, Iowa State College of, appropriation to, 598
Ainsworth, W. J., 469
Air Pilot, The, 458
Airships, Antediluvian, 613
Akin, Louis, letter of, 285
Alaska, A Survey of, 1743-1799, 463
Alaska, The Sanitary Condition of the Natives of, 280
Alaskan History, Background of, 134
Alaskans in the Rockies, Young, 616
Albertson, R. B., opinion of, 614
Alden, Cynthia M. W., book by, 615
Alderman, A. B., book by, 457
Aldrich Banking Plan, The, 283
Alexander, King, 307
Algonquian Tribes, Preliminary Report on the Linguistic Classification of, 614
Aliens, land held by, 158
Aliens, Treaty Obligations and Protection of, 610
Allegheny Mountains, English explorations beyond, 268; reference to, 270
Allen, Arthur W., article by, 448
Allen, D. B., 469
Allen, James, expedition of dragoons under, in 1844, 68, 101, 360, 361; birth and education of, 68; military services of, 68-72; explorations by, 69, 71; career of, in Iowa Territory, 70, 71; death of, 72; report of, on expedition in Territory of Iowa in 1844, 73, 74-83; journal of, 84-108; sketch of, 260; expedition of, in

1845, 259, 260; theft of horses from, in 1844, 265, 266
Allen's, Captain James, Dragoon Expedition from Fort Des Moines, Territory of Iowa, in 1844, by JACOB VAN DER ZEE, 68
Allen, Mr., 353
Allen, W. S., appointment of, 380, 402; vote of, 384
Allen, W. Y., Some Extracts From the Diary of, 624
Allen's Bay, name of, 70
Allen's Lake, 70
Alleys, 563
Allis, Samuel, mission work of, 341; attack on, 349
Allison, James E., article by, 115
Allison-Henderson Memorial Association, formation of, 300
Alton, town of, 246
Alton, An Old Time Tragedy in the State Penitentiary at, 623
Altoona, Hungarian at, 499
Alumni in Politics, 121
Alumnus, The, contents of, 120, 285, 456
Alvord, Clarence W., book by, 268
Amendment, Fourteenth, Stare Decisis and the, 115
Amendments, constitutional, resolution relative to, 600
America, colonization of, 321
America, Race That Peopled, Remains in Eastern Asia of the, 280
America, What I Saw in, 279
American Fur Company, post of, 70, 71, 265; headquarters of, 311; Hubbard's service with, 311; interests of, in Illinois, 313, 314; St. Louis branch of, 338; trade of, in eastern Nebraska, 341; boat of, 350; liquor sold by, 351, 352, 357, 358
American History, The Journal of, contents of, 117, 278, 450
American History, Profitable Fields of Investigation in, 1815-1860, 465
American Industries, contents of, 114, 274, 448
American Life, Recent Interpretations of, 451
American Prehistory, 621
Americana, general and miscellaneous, 111, 271, 446, 603; western, 118, 282, 452, 612
Americana, contents of, 117, 278, 448, 610
Americanists, The XIX International Congress of, 294
Americans, Spanish inducements to, 7; emigration of, to Upper Louisiana, 12; settlement of, in Upper Louisiana, 15; Spanish land grants to, 16; land grants to, in Upper Louisiana, 24; settlement of Louisiana by, 24; life of, 25; boasting of, 223; nature of, 233, 234; trade of, with Indians, 518, 519; British dislike of, in West, 519; Indian war against, in West, 532; Winnebagoes hostile to, 540, 542
Ames, Hungarians at, 507
Ames Representation in the Legislature, 456
Amusements, public, law relative to, 565
Anamosa, 579
Anderson, Archer, 468
Anderson, C. L. G., article by, 117
Anderson, Claus L., 469
Anderson, Colonel, Iowa woman related to, 459
Anderson, Theodore, work of, 422
Anderson, Thomas G., trading operations of, 329, 330
Andover, Massachusetts, A Genealogical-Historical Visitation of, 291, 464
André, Louis, report of, 324
Andrew, A. P., article by, 607
Andrew, I. A., 629
Andrews, John B., article by, 451
Andrews, L. F., article by, 125, 459, 618
Andrews, Professor, work of, 135
Anglo-American Diplomatic Relations, A Century of, 610
Animal husbandry, encouragement of, 586
Animals, domestic, damage done to, 587
Annals of Iowa, contents of, 132, 297, 465, 621
Annotations, question of, in code, 390, 406, 407, 412, 413, 415; value of, in codes, 443
Antelope (steamer), 344, 345; scientists on board of, 350; liquor brought by, 352
Anthropological Papers of the American Museum of Natural History, contents of, 283, 453, 613
Anthropology — Past and Present, 118, 283
Anti-Federalist Party, successor of, 148, 149
Anti-Masonic Party, member of, 445
Anti-slavery Party, 445
Antiquarian and Oriental Journal, The American, contents of, 119, 283, 453, 613
Antiquarian Society, American, Proceedings of the, contents of, 127, 607
Anza Expedition of 1775-1776, The, 464
Apache Problem, An, 612
Applied History, 124
Appropriations, recent, in Iowa, 595-597; amount of, for State institutions, 597-599; miscellaneous, 599
Arabs, enthusiasm of, 242
Arbitral Justice, The Court of, 111

Arbitration, Legal Problems Capable of Settlement by, 446
Arbitration, Report of the Board of, 274
Arbitration, The Time to Test Our Faith in, 275
Arbitration as a Means for the Promotion of International Justice, 610
Arbitration Bill, terms of, 590
Arbor Day and Its Founder, 448
Archaeologists, International Society of, meeting of, 138, 626
Archaeology, American, School of, home of, 471
Archimedes, 308
Architect, State, duty of, 593
Archives, Public, of Iowa, 132
Archives, The National: A Programme, 131
Arcsen (Hungary), 510
Argo, Mrs. J. W., 472
Aristocracy, government in hands of, 151
Arkansas, State of, 21; removal of Senecas to, 278
Arkansas, Territory of, land claims in, 29
Arkansas, village of, 23
Arkansas Historical Association, Secretary of, 133
Arkansas River, 259
Armaments, The Drain of, 448
Armstrong, Florence A., article by, 618
Army life, book of, 618
Arndt, John W., article by, 466
Arnold, Guy P., 135, 502
Arnold and Peters, store of, 529
Arsenal, Rock Island, 618
Arthur, Gabriel, journeys of, 269
Arthur, King, romances of, 309
Artisans, land grants to, 8
Asbach, Sybilla, 494
Ashworth, John H., article by, 604
Asia, English Trading Expeditions into, 272
Asia, remains of race in, 280
Assessment, special, report on, 433, 434; law on, 436
Assessment laws, special, code of, 430
Assessors, City, salary of, 561
Assiniboin Indians, half-breeds of, 263
Astor, John Jacob, expedition sent out by, 334; failure of enterprise of, 335; trading operations of, in West, 338; trade of, 345
Astorians, The Trail of the, 463
Atchison, General, removal of Indians by, 342
Atherton, Gertrude, article by, 449
Atkinson, Henry, post established by, 335; reference to, 342
Atlantic City (New Jersey), 301
Atlas, 308
Attorney General, State, duty of, 553, 567; salary of, 555; appointment of assistant of, 556
Attorney General, United States, privilege of, 29
Attorneys, County, qualifications and powers of, 558; duty of, in liquor cases, 575
Attorneys, duty of, 554
Atwood, Albert W., article by, 116
Auditor, State, salary of, 555; officers appointed by, 556; municipal reports to, 562; duty of, 583, 592; relief of, in matter of insurance supervision, 583
Auditors, County, report of, on sale of code, 437; salary of, 557; duty of, 579; filing affidavit with, 585
Audubon, John J., visit of, to western Iowa, 357, 358
Augusta County (Virginia), records of, 292
Aurner, Clarence R., article by, 120, 125; research work of, 470, 628
Austin, Moses, land claim of heirs of, 37
"Australia, Young," Movement, The, 449
Australian ballot, 378
Austria, treatment of Hungarians by, 479, 482, 494, 505; amnesty declared in, 489; oppression of, 490; Hungarian opposition to, 491, 492; peace party in, 492; Hungarian exiles feared by, 512; dispute between United States and, 514
Autocracy, industrial, effect of, 152
Automobile Tax, The, 286
Automobiles, result of use of, 568; insurance against loss resulting from accidents due to, 583
Autumn Leaves, contents of, 120, 286, 455, 615
Avenues, 563
Ayer, Edward E., collection of, 118
Ayrshire, Burns' home in, 248

Babbitt, Lysander W., sketch of, 619
Baber, George, article by, 291
Babtiste, J., land claim of heirs of, 37
Backus, Captain, request of, 101
Backus, Mrs. E. M., article by, 128
Bagabo Myths, 462
Bagby, R. O., 136
Bagehot, Mr., phrase of, 151
Bagley, Clarence B., article by, 623
Bailey, Walter, article by, 463
Bailey, W. H., article by, 295
Baily, Wm. H., appointment of, 433; reference to, 439
Baird, G. W., article by, 614
Baker, Charles, election of, as code commissioner, 366, 370; sketch of life of, 371
Baker, Olive, article by, 622
Baker, S. W., article by, 617

Baker, T., appointment of, 50
Bakke, A. L., 136
Balch, Thomas W., article by, 272, 277
Baldwin, C., 44
Baldwin, F. Spencer, article by, 610
Baldwin, Henry, opinion of, 34
Baldwin, William H., article by, 450
Baldwin, W. W., appointment of, 139
Balkan Armies, The Operations of the, 446
Balkan Diplomacy, The New: Venezelos and Danev, 278
Balkan States, Economic Reconstruction in the, 449
Balkan War, The; Some Underlying Causes, 116
Balkans, The Militant Democracy of the, 116
Ball, George W., appointment of, 433
Ballot, The Long, as a Cause of Political Corruption, 614
Ballot, short, adoption of, in Iowa, 552
Baltimore, Defence of, 1814, 293
Baltimore (Maryland), Democratic National Convention at, 49, 57
Baltimore Archives, Miscellaneous Excerpts from the, 128
Baltimorean of the Eighteenth Century, A Diary of a, 293
Bancroft, Hubert Howe: His Work and his Method, 130
Bandits, early, in Iowa, 618
Banditti, Mississippi, end of, 618
Bank, First National, The History of the, in the United States, 456
Bank, national, establishment of, 149; war on, 151
Bank, United States, 62; opposition to, 55
Bank Act, National, 456
Bank paper, opponents of, 155
Banker, Progress and the, 614
Bankers Association, American, survey of work of, 121
Banking and Currency Bill, Review of the, 615
Banking and Currency, committee on, 273
Banking Reform in the United States, 451
Banks, pamphlets distributed by, 423; early, in Iowa, 456; laws relative to, 582, 583
Baptists, activities of, in England, 293
Bar, Iowa, Nestor of, 46, 47
Bar Association, American, recommendation of, 425
Bar Association, Iowa State, Proceedings of the Eighteenth Annual Session of the, contents of, 121; reference to, 123
Bar Association, State, committee appointed by, 433
Barba, Preston A., article by, 463, 621
Bareis, G. F., 627
Barker, W. K., appointment of, 434
Barlow, Wm., article by, 463
Barlow Road, The, 463
Barnard, Ella K., article by, 293
Barnett, Fred L., collection of, 459
Barnett, George E., article by, 447
Barnett, James D., article by, 114
Barnwell, Joseph W., article by, 128
Barr, G. Walter, article by, 455
Barr, James, 473
Barrelle, Joseph, article by, 130
Barry, J. N., article by, 463
Barry, Phillips, article by, 129
Barton, George A., article by, 605
Baskett, James N., paper by, 110
Bates, Albert C., article by, 292
Bates, Frederick, report of, on land titles in Missouri, 26, 27; action of, 29
Batthyányi, Count Casimir, staff of, 506
Battis, Mrs. Maude, 298
Batts, Thomas, journal of, 268
Battleships, As to Two, 114
Bayard, S. J., 48; appointment of, 49
Beal, Foster E. L., book by, 122
Beall, Walter H., 628
Bean, Robert B., article by, 283, 453
Beard, E. J. H., article by, 286
Beard, E. W., sketch of, 618
Beard, James T., book by, 457
Beardsley, Charles, motion of, 173; appointment of, 190; reference to, 205
Bears, 85; stories of, in early Iowa, 125
Beauchamp, W. M., article by, 130; book by, 620
Beauregard, Mrs. H. T., translation by, 132
Beaver Creek, 85
Beaver River, 84; dragoons on, 108
Beck, A. R., article by, 133
Beck, Samuel C., 473
Becker, Carl, article by, 449
Bed-bugs, law relative to, 575
Bee Inspector, State, salary of, 556
Beecher, Benj. S., article by, 116
Beecher, Henry Ward, Lectures and Orations by, 616
Bees, law relative to, 587
Beggars, observation on, in America, 238
Behrman, Martin, address by, 293
Belgian Political Situation, The, 281
Bell, Miss Currer, 243
Bell, George W., book by, 446
Bell, Thomas, resolution of, 419
Belle Fontaine, government factory at, 518
Bellevue (Nebraska), Indian trade and mission at, 341, 343; early arrivals at, 342; Indian agency at, 344; de Smet's visit to, 350; Omega at, 357; Indian agency opposite, 361

Belt, Robert B., 518
Bem, General, 507
Bench and Bar, The Early, of Iowa, 122
Benedict, C. R., death of, 628
Benedict, Chief Justice Kirby, 454
Benedict, Laura W., article by, 462
Benedict, William H., article by, 127
Beneficiary societies, fraternal law on, 440
Bennett, Granville G., leadership of, 172; bill of, 173
Bennett, Guy V., article by, 463
Benteen, Colonel, victory of troops under, 250
Benton, Thomas H., case of, 33
Beresheim, John, resolution of, 195
Bergen in New Jersey, The Reformed Protestant Dutch Church of, 621
Berkeley, Governor, exploration promoted by, 268
Berkshire County (Massachusetts), democratic manifestations in, 147, 148, 150
Bernard, L. L., article by, 609
Bernbrock, Henry O., 299
Berries, sale of, 586
Berry, Caroline W., article by, 450
Berry, Mr., death of, 260
Berry, William, article by, 122
Berry, W. H., resolution of, 387; appointment of, 388, 389, 402
Bestow, Samuel L., petition presented by, 214
Bethlehem, Pennsylvania, Three Letters Written at, 133
Bettinger, Albert, article by, 296
Betts, George H., book by, 457, 616
Betuwe, fertility of, 232
Beveridge, Albert, 164
Beveridge, J. H., article by, 285
Bible societies, 317
Bidgood, Lee, book by, 268
Bids, sealed, law relative to, 564
Biermann, Fred, 299
Big Cedar River, branch of, 90
Big Foot, Chief, band of, 344
Big Prairie, dragoon expedition on, 87, 97
Big Sioux River, dragoon expedition to, 76, 78, 96, 360; description of valley of, 78, 97, 98; buffalo in valley of, 80; floods of, in 1844, 82, 83; trading-house on, 98; falls of, 100; march down valley of, 101; bluffs of, 102, 103, 104; reference to, 225; trader's trail to, 325; early explorer of, 333; Indians of, 337
Big Stone Lake, 261
Billings, Dr. John Shaw, Memorial Meeting in Honor of the Late, 606
Billings, P. S., appointment of, 139
Bills, drafting of, 442; expert drafting of, 546; failure of, in legislature, 600
Binder, State, prices of, 412, 413; code contract let to, 412, 413; code bound by, 423; work of, 435
Bingham, C. W., appointment of, 433
Bingham, Hiram, article by, 127
Bingham Lake, 91
Biography, place of, in history, 307
Bird, Charles S., article by, 273
Birdsall, John N., 469
Birds' Convention, The, 616
Bishop, Avard L., article by, 608
Bismarck, Prince, 307
Bissell, Colonel, 543
"Black Code", 377; description of, 416
Black Hawk, Iowa woman acquainted with, 125; reference to, 224, 225; influence of, on Indians, 519, 524; attack on old Fort Madison led by, 521, 523; war party led by, 524
Black Hawk Purchase, immigration to, 339
Back Hawk War, soldier in, 259
Black Hills, journey to, 271
"Black Robes", coming of, to Iowa, 348
Blair, C. W., delivery of prisoner to, 253; treatment of Dunlavy by, 253, 254
Blakely, Walter J., article by, 131
Blanchard, L. C., appointment of, 388; resolution of, 390, 396
Bland, Edward, discovery by, 268
Bland, Giles, case of, 464
Bleakley, Josiah, store of, 539
Blind, College for, salary of officers of, 556; appropriation to, 598
Blizzards, recollection of, 289
Blondeau, Maurice, Hunt's meeting with, 540; boat of, 540, 541; reference to, 542
Bloom, Lansing B., monograph by, 454
Bloomer, D. C., errors of, 331, 343, 345
Bloomington (Indiana), meeting at, 110
Bloomington (Iowa), convention at, 50, 51
Bloomington Herald, The, Whig observations of, 46, 56, 60
Blue Book, Old, 443
Blue Earth River, expedition to source of, 68, 75, 76, 89, 90; search for sources of, 92; branch of, 96; Le Sueur on, 324
Blue Sky Bill, terms of, 579, 580
"Blue Sky Law" in Kansas, Benefits of the, 121
Bluff Creek, 85
Bluffs, country of, 101, 102, 103; Iowa, 225; Missouri, 339
Blum, August, article by, 285
Board of Control, State, power of, 568
Boarding-houses, fire escapes on, 570
Boas, Franz, article by, 129
Bogart, Ernest Ludlow, book by, 110
Boggs, William R., General, Military Criticism by, 451

Boehm, Rev., John Philip, Letters and Reports of the, 462, 622
Boehm, Rev. John Philip, The Writings of the, 292
Boehm University, 503
Bohemia, 622
Boise (Idaho), 301
Bolton, Frederick E., 439
Bolton, Herbert E., monograph by, 461; reference to, 624
Bolks, H. G., 136
Bolks, Seine, pioneer life of, 236; reference to, 243, 246
Bollinger, J. W., appointment of, 433
Bonaparte, Charles J., 300
Bookmakers, law on, 376
Boone, Daniel, land grant to, 12; reference to, 27
Boone, Daniel, in the Kanawha Valley, 463
Boone, Nathan, land claim of, 27; expedition of, 92
Boone County, dragoons in, 85
Boone-Ryan History, The, 461
Boot and Shoe Industry in Massachusetts before 1875, The Organization of the, 275
Bonds, government, sale of, 155; opposition to, 158
Bopp, Clinton L., book by, 457
Borah, William B., article by, 462
Borah, William E., 164
Borchard, Edwin M., article by, 275
Borland, William P., article by, 128
Bornmann, Heinrich, article by, 626
Boros Jenö (Hungary), treaty of, 479
Bosboom, Mr., paintings by, 245
Boss, rule of, 152; opponents of, 153
Boston, propaganda in West from, 347
Boston, Emancipation Proclamation in, 278
Boswell, Helen V., article by, 452
Botsford, George W., book by, 287
Boucher, Rev. Jonathan, Letters of, 293, 462, 624
Bourne, Jonathan, 164; article by, 278
Bousquet, J. P., journey of, 236, 239, 246
Bousquet, Mrs., call on, 230
Bouwerij, The Road to the, 610
Bowen, J. J., article by, 277
Bowers, Alphonzo B., article by, 117
Bowman, John G., address by, 122
Bowman, J. N., article by, 115
Bowman, Joseph, journal of, 602
Boyd, David R., article by, 282
Boyd, William K., article by, 451, 465
Boyd, William R., article by, 278
Boyer River, 106, 336, 339, 356, 361
Boyle, James E., article by, 284
Boyles, W. Harrison, article by, 118
Boys, Industrial School for, 578
Brace, Charles L., experience of, in Hungary, 512, 513
Brackenridge, Henry M., journey of, 334
Bradbury, John, 334
Bradford, Gamaliel, Jr., article by, 112
Bradt, S. E., article by, 615
Bragg, General Edward S., Letters of, to Senator James R. Doolittle, 610
Brainard, Daniel E., appointment of, 44
Brainerd, David, life of, 444
Branch, Homer P., book by, 287
Brandenburg, W. A., article by, 286
Brandon (Vermont), 370
Brant, David, resolution of, 405
Brant, Irving N., article by, 289
Brazeau, Louis, certificate issued to, 25
Brazil, The Relations of, with the United States, 605
Breckenridge, William C., article by, 622
Brede, Charles F., article by, 463, 621
Breeding animals, examination of, 587
Brenton, Charles R., 469
Brewer, Earl, address by, 293
Breweries, erection of, 24
Bridges, construction of, 553; cost of, 567
Bridgeton, N. J., in 1817, The Religious Revival of, 622
Bridgman, Arthur, call signed by, 44
Briggs, Isaac, 293
Briggs, Uriah, appointment of, 47
Brigham, Clarence S., article by, 607
Brigham, Johnson, book by, 135, 616, 628; article by, 289, 297, 461, 465; reference to, 469
Brighton, H. H., appointment of, 380, 402
Brindley, John E., book by, 111, 122, 135; paper by, 136, 137; article by, 284
Brinson, William, 298
Brisbanes, The, 623
Bristow, Joseph L., 164
Britain, The Towns of Roman, 118, 283
British, partiality of Sioux Indians for, 261; operations of, on Ohio River, 1777-1778, 269, 270; operations of, in Mississippi Valley, 518, 519; influence of, over Indians, 519, 525, 532; licenses of, 525; Indian allies of, in 1812, 539, 543, 544; trading house of, 539
British Empire, essential factor in building of, 321
Broadhead, G. C., article by, 465
Brookmire, James H., article by, 451
Broussa (Asia Minor), 483
Brown, Charles E., report by, 295; article by, 295, 461
Brown, Charles R., book by, 616
Brown, E. A., 6
Brown, Edward F., article by, 273
Brown, F. Z., article by, 623

Brown, Harry G., article by, 605
Brown, John, recruits under, 618
Brown, John H., article by, 278, 448, 610
Brown, Lewis H., 299; appointment of, 469
Brown, Louise F., article by, 293
Brown, P. Hume, article by, 274, 606
Brown, R. A., article by, 446
Brown, Robert, 47
Brown, W. Jethro, article by, 115
Brown Raid, The John, 113
Browne, Benj. F., article by, 620
Browne, William H., book edited by, 294
Browning, Charles H., article by, 133
Bruce, Andrew A., article by, 613
Bryce, James, article by, 462
Bryce, Joseph W., article by, 448
Bryan, Beauregard, 467
Bryan, William Jennings, nomination of, 159; strength of, as speaker, 160; campaigns of, 160, 161; principles of, 160, 161; analysis of policies of, 162; democracy of, 322
Bryan, William J. S., address by, 611
BRYANT, THOMAS J., *The Capture of General Marmaduke by James Dunlavy,* 248
Bryant, Thomas J., sketch of life of, 302
Buck, Solon J., paper by, 134; book edited by, 314; statement by, 318; book by, 602
Buckshot War, 445
Budemer, estate of, 489
Budget, How We Have Been Getting Along Without a, 281
Budget, State, Suggestions for a, 281
Budgetary Control, The Limit of, 281
Budlong's, Mrs., Christmas Presents, 124
Buena Vista, battle of, 51
Buffalo Bill, passing of, 615
Buffalo (New York), 110
Buffaloes, feeding grounds of, 78; range of, in Iowa Territory, 80, 99; shooting of, by dragoons, 97; meat of, 98; herds of, 101, 237; hunting of, by Indians, 264, 265; hunt of, 358; haunts of, along Big Sioux River, 360
Buildings, laws relative to, 570; ventilation of, 590
Bulkley, John M., article by, 626
Bulis, H. C., motion of, 174
Burdette, Robert J., book by, 122
Burdick, Nelson B., 473
Bureau River, trading house near mouth of, 312
Burgess, S. A., article by, 455, 615
Burglary, intent to commit, 594
Burgwin, J. H. K., dragoons under, in western Iowa, 356, 357; story of, 358
Burlington, old, 125, 290, 459, 618; Y. M. C. A. building at, 138; description of, in 1873, 223; chronology of year 1912 in, 290; land sales at, 319, 320; location of, on Oregon trail, 359; storms and flood at, 460; interesting glimpses of, 460; bronze tablet in memory of seven pioneers of, 460, 471; arrival of Hungarians at, 484; act for benefit of, 571; smoke nuisance in, 573; three old landmarks in, 618; pioneer of, 619
Burlington Hawk-Eye, The, articles in, 125, 290, 459, 618; comment of, on code, 409, 410, 411
Burlington Weekly Hawk-Eye, The, legislature criticised by, 198
Burlington Railroad, 619
Burnet, Eva, 136
Burns, Robert, fame of, 248
Burr, Charles H., article by, 113
Burt, Huron, article by, 292
Burton, Emma B., article by, 456
Burton, Joseph F., Biography of, 456
Bushnell, Abner C., 473
Business, big, effect of, on politics, 152, 153; cause of depression of, 154; development of, 155; effect of, on elections, 162; one view of problem of, 273
Business and The New Administration, 274
Business Forecasting Based on Fundamental Statistics, Methods of, 451
Business Management, The Old vs. the New Type of, 614
Butler, Benj. F., nomination of, 155
Butler, Ellis P., book by, 616
Butler, W. O., praise of, 48, 49
Buxton, Noel, article by, 274
Byers, H. W., speech of, on code, 416
Byers, S. H. M., book by, 123
Byington, O. A., resolution of, 383, 404
Byron, Lord, fame of, 248; admirer of, 502

Cabanne, John P., land claims of, 32
Cabell, General, capture of, 256
Cabinet, The President's, 281
Cage, C. W., 298
Calbreath, Mrs. Mattie E., 469
Calcium carbide, law relative to, 571
Calculus, An Elementary Treatise on, 616
Caldwell, Billy, Chief, 347; Jesuits received by, 348; death of, 355
Caldwell, George B., article by, 285
Caldwell, L. L., 299
Calhoun, John C., as Secretary of War, 1817-1825, 463
Calhoun, J. C., Jr., 104
Calhoun, Patrick, part of, in expedition, 74, 90, 91, 104
Calhoun County, dragoons in, 107
California, acquisition of, 41; Republican victory in, 160

California, A Plea for the Larger Spirit of Coöperation in, 453
California, The Question of the Eastern Boundary of, in the Convention of 1849, 295
California, Southern, Pioneer Railroads of, 130
California, Southern, Annual Publications of the Historical Society of, contents of, 130
California, University of, Publications in American Archaeology and Ethnology, contents of, 119, 612
California, University of, Publications in Economics, contents of, 452
California, University of, Publications in History, contents of, 613
California, University of, plan of, 139
California Chronicle, The University of, contents of, 119, 283, 453, 614
California's Experiment with Home Rule Charters, 611
Call, R. K., argument of, 6
Callaghan and Company, offer of, 412, 414; suit of, against Emlin McClain, 428, 429
Callahan, James M., article by, 296, 610
Calumet River, fur trade on, 312
Calumets, red, 324
Calvin, Aaron, testimony of, 22
Calvin, James, testimony of, 22
Camp Cold Water, route to, 336
Camp Kearney, establishment of, 346; observations taken at, 351
Camp McClellan Association, meeting of, 300
Camp Missouri, establishment of, 335, 336
Camp Union (Dubuque), 473
Campaign, Iowa, of thirty years ago, 618
Campaign Clubs, formation of, in 1848, 60
Campaign funds, use of, 162
Campbell, Duncan, 135
Campbell, Frank T., appointment of, 190; resolution of, 194
Campbell, James E., 627
Campbell, Niall D., article by, 448
Campbell, Robert A., article by, 449
Canada, opposition to English of, 7; presents of government of, to Indians, 261; boat songs of, 311; war in, 326; capture of, by English, 327; history of, 606
Canada, Archaeological Work in, 453
Canada, Mine-Rescue Work in, 271
Canada, Review of Historical Publications Relating to, 113, 606
Canada, Upper, Scandalum Magnatum in, 450
Canada and the Chinese, 277
Canada and the Preference, 277
Canadian National Problems, 277
Canadians, Indian descendants of, 263; work of, 350
Canadians in the United States, 277
Canal Builders, The, 279
Canals, The Two Great, 117
Candidates, legislation for, 551
Canfield, Captain, expedition of, 92
Cannon, James G., article by, 615
Cannon, Joseph, opposition to, 164
Cape Girardeau, commissioners at, 19
Capen, Samuel B., address by, 274
Capital, combinations of, 164
Capital punishment, abolition of, 202
Capitol, State, fight on building of, 618
Capitol grounds, State, 467; act relative to extension of, 596, 597; opposition to extension of, 618
Cardiff giant, 445
Caribbean America, Our Duty in, 280
Carl, Charles W., 472
Carlisle, L. B., 299
Carlos II, ordinances issued by, 3
Carlos III, ordinance of, 4
Carlyle, Thomas, 308
Carmichael, William, The Diplomatic Career of, 624
Carnegie Endowment for International Peace, The Year Book of the, 604
Carnegie Institution of Washington, Department of Historical Research in, activity of, 135
Carney, J. L., address by, 134; appointment of, 389; resolution of, 390; vote of, 391
Carondelet, Baron de, land grants by, 15; order of, 34
Carondelet, village claim of, 23, 26
Carpenter, Anthony W., 471
Carpenter, C. A., appointment of, 388; resolution of, 391, 417; instruction to, 401; death of, 628
Carpenter, Cyrus C., inaugural of, 189; message of, 210
Carpenter, Ford A., book by, 612
Carr, Clark E., 627
Carriers, common, duty imposed on, 581, 582
Carroll, B. F., commissioner appointed by, 139; report to, 140; motion of, 388; appointment of, 420; recommendation of, 441; message of, 442; bills signed by, 548
Carroll County, Iowa, History of, 288
Carson and Fremont, With, 124
Carstens, C. C., article by, 279
Carter, John R., work of, on *Code Supplement,* 435, 436, 440
Carter, William, 129
Carver, Captain Jonathan, 466

Cary, Samuel F., nomination of, 155
Casa Grande, Arizona, 614
Cashinwa, services of, 534, 535, 538; reward of, 538; mother of, 539
Casillis, Earl of, article by, 112
Cass, C. D., 299
Cass, Lewis, praise of, 48; opposition to, 53, 54; doctrine of, 63; report to, 69; letter of, to Ujházy, 484
Cass County, Indian village in, 348, 362
Castelli, Giulio, article by, 121
Castle, Clara Bosworth, article by, 453
Castle Campbell Inventory, The, 448
Catell, J. McKeen, article by, 453
Catholic Historical Researches, American, discontinuance of, 128
Catholic Historical Society, United States, publications of, 294; landmark notabilia of, 464
Catholic Historical Society of Philadelphia, American, Records of the, contents of, 128, 292, 464, 622
Catholic mission, founding of, in western Iowa, 346, 347; work of 347-355
Catlin, George, visit of, to Floyd's Grave, 339
Cattle, regulation relative to, 5; pasturage for, 6; raising of, 7
Cattle Range to Orange Grove, From, 130
Caulk, Richard, land grant to, 13
Cavalier in America, The, 448
Cavalry Association, Journal of the United States, contents of, 271, 446, 605
Cavalrymen, Forgotten, 271
Cayuga Memorial, A, 461
Cedar County (Iowa), Old Settlers Association of, annual reunion of, 472; John Brown in, 618
Cedar Creek, 107
Cemeteries, maintenance of, 599
Census, laws on, 378
Census Board, State, objection raised by, 218; reference to, 420
Central America, Ruins in, 127
Cerf, Myrtile, article by, 277
Cerro Gordo, battle of, 259
Chalkley, Lyman, article by, 292
Chamberlin, Ralph V., article by, 446
Chambers, B. J., nomination of, 155
Chambers, John, report of, on half-breeds of Red River, 265
Champaign County (Ohio), immigration to, 315
Chancellor, William E., article by, 277
Chandler, George, book by, 123
Channing, Edward, book by, 281
Chapple, Joseph M., book by, 123
Charities, act relative to, in Iowa, 577
Charlemagne, King, 307
Charter Making, The Vital Points in, 607
Chase, Salmon P., correspondence of, with Madarász, 492, 496, 515
Chautauquas, La Follette's work in, 165
Chemical Analysis for Students of Medicine, Pharmacy, and Dentistry, Introduction to, 288
Cheney, J. W., article by, 132
Cherokee, description of, in 1873, 240
Cherokee Marital Laws, 620
Cherries, The Parable of the, 617
Cheshire, Thomas A., motion of, 387
Chevalier, André, petition of, 11
Chew, Samuel C., diary edited by, 293
Chicago (Illinois), foreigner's visit to, 222; Indian treaty of 1833 at, 339; government factory at, 518
Chicago (Iowa), 237
Chicago and the Old Northwest, 617
Chicago Housing Conditions, 274
Chickamauga, The Battle of, 291
Chickasaw Bluffs, 3
Children, Preventing Cruelty to, 274
Children's Bureau, The, 115
Childs, Richard S., article by, 278
China, American Minister to, 630
China, Old, and Young America, 287
China, Some Social and Economic Results of the Revolution in, 116
China, Yuan Shih-kai, Master of, 608
Chinese Loan, America and the, 449
Chippewa Indians, half-breeds of, 263; land cession to, 339, 340
Chippewyan, Texts and Analysis of Cold Lake Dialect, 283
Chippewyan Tales, 283
Chittenden, Hiram M., story told by, 357
Choate, Dr. Cora W., 298
Chouteau, Auguste, land claim of, 25, 27, 35; reference to, 328; boat of, 333
Chouteau, Pierre, 328
Christian, George L., article by, 114
Christian Reformed Church, congregations of, in Iowa, 232
Christianity, Primitive, and Early Criticisms, 616
Christy, Samuel B., article by, 453
Church, Z. A., 436
Church bell, first, in Iowa, 125
Church Do To Be Saved?, What Must the, 458
Church History, 1830-1844, A Short Sketch of, 120
Cigarette bill, 395
Cigars, The Lady Who Smoked, 288
Cincinnati (Ohio), growth of, 316; negroes at, 603
Circuit Court, provision for, 210
Circus family, Iowa, 459

Cities, special assessments in, 433; streams in, 436; authority conferred on, 559, 561, 563, 564; classification of, in Iowa, 559, 560; new legislation relative to officers of, 560, 561; financial reports of, 562; assessments for improvements in, 563, 564; public utilities in, 564, 565; recreation centers in, 565; traffic ordinances in, 570; acts relative to public safety in, 570, 571; public health in, 572-574; liquor traffic in, 575; firemen's pensions in, 576; vote of taxes in aid of railroads in, 580, 581; trade and commerce in, 584; cemeteries in, 599
Cities, Iowa, Under Mulct Law, 614
Cities, Sanitation of, 286
Cities, Satellite, 117
Cities and Towns, Home Rule for, 122
City, The American, contents of, 608
City Charters, Ordinances, and Collected Documents, List of, 112, 272, 447
City Commissioner, How a Little City is Progressing Under a, 608
City Economic, The, 286
City government, report on, 375
City Government, Shall We Change Our, 282
City Management, Expert, 114
City Wastes, List of Works on, 112
Civic Association, American, convention of, 138
Civic Federation, The National, 116
Civic Problem, A, and a Social Duty, 279
Civil Law, merits of codes of, 170
Civil Practice Act, alteration of, 175; preparation of, 187
Civil Procedure, code of, 181
Civil Service Reform League, National, meeting of, 300
Civil War, democracy and, 152; development of United States since, 153; heroism during, 248; Iowa boy's tale of events of, 459
Civil War, A Patriot's View of the Political Situation Immediately Following the, 448
Civil War, Some Local Incidents of the, 132
Civilization, creatures of, 308, 309
Civilization, The Five Great Battles of, 609
Claghorn, Kate A., article by, 279
Claims, land, reports on, by Boards of Commissioners, 21, 31; classification of, 22-24; number of, examined, 24; extent of, 25, 26, 27; bases of, 25; confirmation of, 26, 27; adjudication of, by Supreme Court, 33-36; final legislation by Congress on, 36, 37
Claims, payment of, 590
Clamorgan, Jacques, land claim of, 32, 37
Clapp, A. C., 469
Clapp, Moses E., 164
Clark, Charles A., 217
Clark, Dan E., article by, 460; research work of, 470; appointment of, 628
Clark, E. W., 299
Clark, Emory W., article by, 448
Clark, George Rogers, expedition of, to Illinois, 270; operations of, in West, 602
Clark, George Rogers, Papers, 1771-1781, 601
Clark, J. M., article by, 451, 609
Clark, Robert C., article by, 129
Clark, William, letter of, 527, 543; expressman from, 538, 539; message from, to Sacs and Foxes, 541
Clark, William O., Biography of, 456
Clarke, George W., motion of, 433; plea of, 442; acts signed by, 548
Clarke, William Penn, call signed by, 50; reference to, 52
Clarkson, James S., article by, 465
Clarkson, John T., appointment of, 139; bill of, 551, 588; statement of, 589
Clarkson Brothers, newspaper of, 413
Clay, Henry, letter to, 28
Clayton County, Free Soilers in, 67; Painted Rock in, 289
Cleland, Ethel, article by, 611
Clement, Ernest W., article by, 114
Clements, Paul H., article by, 277
Clerk, City, duty of, 555
Clerk of District Court, report to, 579; duty of, 579
Clermont Mills, owner of, 140
Cleveland, Frederick A., paper by, 281
Cleveland, Grover, Secretary of State under, 159; opposition of, to Bryan, 160
Cleveland, William F., 629
Cleveland (Ohio), negroes at, 603
Climate and History, Changes of, 295
Climates of the Past, 608
Clinton, George, Jr., article by, 117
Clinton, smoke nuisance in, 573; first railway mail car at, 618
Clinton Advertiser, The, article in, 284
Close, Cicero, appointment of, 190
Cloud, David C., life of, 465
Coal, Iowa, quality of, 225
Coal, Mineral, Aboriginal Use of, 297
Coal Beds, The Formation of, 272
Coal mines, inspection of, 202
Code of 1851, praise of, 182; arrangement of, 184, 185; editor of, 420; corporation provisions of, 425
Code of 1873, use of, 166, 211, 212, 220; reasons for, 166-169, 172; suggestions for production of, 170-172; commission created to compile, 173-178; authors of, 178-181; preparation of, 183, 198; lan-

guage of, 183, 184; arrangement of, 184; legislative history of adoption of, 188-202, 203-209; character and contents of, 208, 209, 210, 220; correction of mistakes in, 210-217, 411; petition for revision of, 214; imperfection of, 217; private edition of, 218, 219; successor of, 364; editor of, 420; reference to, 431

Code of 1897, reason for preparation of, 364; creation of commission to prepare, 365-370; foundation of, 377, 378; legislative action on, 378-392; copyright of, 405, 409, 423; annotations of, 406, 407, 408, 412, 413, 415, 419, 424, 426, 427, 429; editor of, 407, 414; printing of, 412-414, 419; cost of, 416, 429; preparation of, 422, 423; index of, 422; contents of, 423-427; inaccuracies in 428; binding of, 430; second edition of, 431, 433; amended and repealed sections of, 432, 435; supplement of 1902 of, 432-438; supplement of 1907 of, 438-443; Deemer's view of, 443

Code Commission, suggestions for creation of, in 1869, 169-172; legislative history of creation of, in 1870, 173-178, 198; personnel of, 174, 176, 177, 178-181, 197, 198; duties of, 177, 178; public confidence in, 180; work of, 181-188; time consumed by, 182; rules of action of, 183, 185; commendation of, 184; attack on, 188; legislative action on proposed work of, 188-202; plans for consideration of report of, 193, 197, 200; reappointment of, 198; second report of, 202, 203; legislative action on work of, at adjourned session, 203-209; creation of, in 1894, 364, 365-370; duties and pay of, 368, 369; personnel of, 370-373; report of, in 1897, 373-377; suggestion of, 374, 375; code proposed by, 377, 378; legislative action on report of, 378-392

Code Revision Committees, recommendation of appointment of, 379, 387, 388; divisions of, 380, 381; duties of, 382, 391; proposed code considered by, 393, 394; action of, in extra session, 403, 404

Code Supervising Committee, appointment of, 414; work of, 415; members of, 420-422; work of, 422, 423; report of, in 1898, 428-430

Code Supplement of 1902, The, consideration of, in General Assembly, 432-435; annotations of, 435, 436; contents of, 435-437; index of, 435; legislation subsequent to, 437; end of, 438

Code Supplement of 1907, The, history of, 438-441; size of, 439; annotations of, 439, 441; tables in, 440; cost of, 441; reference to, 549

Code Supplement of 1913, The, preparation of, 442; reference to, 540

Code Supplement Supervising Committee, members of, in 1902, 434; work of, 435; final report of, 437; appointment of, in 1907, 438; members of, 439; work of, 440, 441; report of, 441

Codes, character of, in Iowa, 443

Codes of Iowa Law, History of the, by CLIFFORD POWELL, 166, 364

Cohen, Mendes, request of, 298; retirement of, 467

Colcha in Bolivia, Hut Foundations of, 621

Cold storage, act relative to, 574

Cole, Chester C., 170; death of, 630

Cole, Cyrenus, book by, 287

Coleman, Arthur D., 469

Collamer, Jacob, letter to, 56

College, The Function of the, 604

College and the Intellectual Life, The, 449

College Entrance, A Rational Basis for Determining Fitness for, 288

Colleges, code furnished to, 437

Collier, L. T., article by, 128

Collins, Charles W., article by, 115, 604

Colonies, Spanish, land grants in, 3, 4

Colonist, place of, in world, 321

Colorado, hard times in, 160; roads in, 285; adventures in, 444

Colorado, State Historical and Natural History Society of, The Biennial Report of the, 461

Colorado, The Grand Canon of the, 282

Colorado, University of, The Early Days of the, 452

Colorado Springs, convention at, 546

Color Line in Ohio, The, 603

Colored People, The Status and Vocation of Our, 279

Columbia, District of, natives of, in Iowa, 319

Columbia (Missouri), 507

Columbia, Upper, Exploration of the, 293

Columbia Historical Society, publication by, 291

Columbia Library, The, 622

Columbia Law Review, contents of, 116

Columbia River, early trip to, 271

Columbia University Studies in History, Economics, and Public Law, contents of, 449

Columbus, Resting Place of the Remains of, 113

Columbus a Spaniard and a Jew, 465

Columbus (Ohio), founding of, 138; convention at, 154; negroes at, 603

Commandants, Spanish, practice of, 14; duty of, 21
Commencements in the Past, 456
Commerce, laws relative to, in Iowa, 584-586; western, 622
Commerce, English, Studies in the History of, in the Tudor Period, 272
Commerce, Enlarging the Outlets of, 274
Commerce and Labor, Department of, addition to, 162
Commerce counsel, duties of, 582
Commerce Court Question, The, 451
Commission cities, flood protection in, 571
Commission Governed Cities, The Public Library in, 448
Commission government, adoption of, by cities in 1912, 301; short ballot principle in, 552; extension of, in Iowa, 560; power of, in cities, 561, 562; vote of council under, 562; public libraries under, 566
Commission Government, Ten Years of, 114
Commission Government for Cities, Select List of References on, 272
Commission Government for all Third-Class Cities of Pennsylvania, 608
Commission Plan, Some Serious Weaknesses of the, 608
Commission Plan of City Government, The, 456
Commission Plan of Municipal Government, Selected Articles on the, 458
Commissioners, Board of, first, appointment and services of, 18-25; report of, 21; classification of land claims by, 22-24; minutes of, 23, 24, 25; adjudications of, 23, 24; claims examined by, 24, 25; certificates issued by, 25, 27; confirmation of claims allowed by, 26; evidence collected by, 29; recommendation of recreation of, 30; second, duties and members of, 31; report of, 31; third, powers of, 36, 37
Commodity Clause Legislation, The, and the Anthracite Railroads, 605
Common Law, code of, 170
Common Law, The Germs of the, 116
Commons, John R., article by, 273, 279
Commons, House of, claims of, 23
Comorn, Hungary, governor of, 480, 482, 485
Comparative Legislation Bulletin, contents of, 453
Competition, law to insure, in public contracts, 584
Compromise Act, effect of, 157
Comstock, Frank, 473
Comstock, G. Irving, 473
Comwell, Bishop, Life of, 622
Conaway, F. R., code printed by, 423
Confederate Soldiers, deeds of, 612
Confederates, defeat of, at Mine Creek, 250; capture of general of, 251, 252; dress of, 251
Confederation, Articles of, 277
Confiscation Acts of the Civil War, Some Legal Aspects of the, 131
Conger, Sarah P., book by, 287
Congregational Conference of Iowa, The Minutes of the, 614
Congress, foreign land claims before, 3; petitions to, on land claims, 15; Spanish land grants confirmed by, 17, 19, 26, 27; objections to act of, 18; report on land claims to, 21, 22; act of, confirming land titles in Missouri, 28, 29; acts of, relative to claims in Missouri, 29, 31, 32, 37; land claims before, in 1876, 37; presidential elections governed by, 42; nomination of candidates for, in 1848, 43-58; Populists in, 158; medal of honor presented by, 256; appropriation by, for removal of Indians, 342; Iowa men in, 470; treatment of Hungarians by, 485, 486, 487
Congress, Library of, publications of, 271, 272, 279; calendar issued by, 605
Congress, Library of, House Miscellaneous Papers in the, 466
Congress, Twenty-second, Party Groupings in the, 134
Congressional districts, division of State into, 38; boundaries of, in 1848, 39; population of, in 1848, 39; map of, 40
Congressional elections, constitutional provision on, 38; first, in State of Iowa, 38, 39; nature of, in presidential years, 42; date of, in Iowa, 42; result of, in 1848, 67
Congressional Elections in Iowa, History of, by LOUIS B. SCHMIDT, 38
Connecticut, Central, in the Geologic Past, 130
Connecticut Colony, Liquor Legislation in, 450
Connecticut Historical Society, Collections of the, contents of, 292; *Annual Report of the,* contents of, 620
Connelly, H. C., article by, 463
Connolly, Maurice, 469
Connor, R. D. W., article by, 465
Conquistadores, Following the, 464
Conservation, advocate of, 631
Conservation, A Guide to the Study of, 111
Conservation, The Economic Possibilities of, 447
Constitution, State, question of revision of, 174, 177; provision for amendments to, 549, 550; prohibition in, 560; amend-

ment to, relative to taxation, 596; State indebtedness limited by, 597; proposed amendments of, 600
Constitution, The State Under the, 462
Constitution, United States, strict constructionist of, 65; ratification of, in Massachusetts, 148; reference to, 208, 210, 424; proposed amendment to, 550, 600
Constitution of the United States, The, 462
Constitution of the United States, The, and Canada, 122
Constitutional Decisions of the Supreme Court, 115
Constitutional Government in 1787, and at the Present Time, The Theory of, 462
Constitutional History, American, 1776-1876, Readings in, 271
Constitutions, State, Comparative Study of, for Provisions not Found in Our Own, 130
Constitutions, State, provisions on general elections in, 42; change of, 151
Consumers' Coöperation — The New Mass Movement, 449
Continental Congress, 1774-1789, Journals of the, 277
Contracts, law of, in Iowa, 378, 379; competition in, 584
Contributors, 142, 302, 474, 632
Contributory negligence, doctrine of, 589
Control, Board of, chairman of, 140; special millage for institutions under, 575, 576; purpose of, 577
Controlled-Executive Plan, The Theory of the New, 278
Conveyances, insurance against loss resulting from accidents due to, 583
Convict Labor in Highway Construction, 452
Conviction, Proceedings Following, 113
Convicts, provision for, 579
Conway, F. R., appointment of, 31
Conwell of Philadelphia, Life of, 464
Cook, Ebenezer, report presented by, 51
Cook, George W., 473
Cook, John P., call signed by, 50
Coolbaugh, William F., 471
Cooley, Charles H., article by, 274, 609
Cooley, Dennis N., resolution of, 213
Cooley, E. E., 174
Cooley, L. C., 136
Coolidge, Sherman, article by, 612
Coon, Charles L., article by, 465, 604
Coon River, 106
Cooper, Forest, article by, 623
Cooper, N. P., appointment of, 51
Cooper, Peter, nomination of, 155
Cooper, R. Watson, response by, 473
Cooper, Stephen, agency of, 352, 354
Coöperation in Wisconsin, 449
Copus Battle Centennial, The, 130
Corinth, battle of, 503
Corn, foreigner's appreciation of, in Iowa, 226; uses of, 226
Cornell, Samuel, Papers Relating to, 447
Corning Union-Republican, The, letter in, 285
Cornstalk, Chief, murder of, 270
Cornwall, W. W., appointment of, 379, 380, 402, 414; resolution of, 382; motion of, 402; sketch of life of, 421
Coronado, 282; tribes met by, 625
Coronado, A Study of the Route of, 110
Corporation Tax, The Federal, on Life Insurance, 115
Corporations, special privileges of, 153; land held by, 158; prosecution of, 163; indictment of, 187; Iowa law on, 425; duty of, 579, 580; foreign, in Iowa, 580
Corporations, Bureau of, establishment of, 162
Corrupt practice acts, new section of, 551
Corrupt Practices Legislation in Iowa, 127, 136
Corruption, causes of, 152, 546
Corruption, Political, The Long Ballot as a Cause of, 614
Cosmopolitan Club Movement, The, 114
Cosson, George, article by, 452
Cost Data, Hand Book of, 457
Cottman, George S., magazine edited by, 625
Cottonwood County (Minnesota), dragoons in, 91
Cottonwood River, 94
Coulter, John L., article by, 115, 275
Council, City, appointment vested with, 552; duty of, 564
Council-bluff, location of, 331, 345; reference to, 334, 335; expedition from, 336
Council Bluffs, railroad at, 64; origin of name of city of, 331, 345; buildings of sub-agency at, 343, 354, 361; Indian agents of, 343, 344, 353; early settler on site of, 344; Hart's cabin at, 345; Jesuit mission near, 347, 355; site of, 356; Oregon emigration by way of, 359, 360; Indian treaty at, 362; smoke nuisance in, 573
Councilmen, salary of, 560, 561
Counterfeiter, early, in Iowa, 618
Counties, administration in, 168; government of, 169; histories of, 444; law relative to roads in, 567, 568; report of criminal statistics of, 579; encouragement of farm life in, 586
Counties, State Examiner for, appointment of, 556

County commissioners, board of, 168
County government, history of, in Iowa, 470; recent legislation relative to, 557-559; reference to, 630
County Government, 452
County Government, A New Departure in, 611
County officers, nomination of, 554; increase of salary of, 557; terms of office of, 600
County Records as Sources of Local History, 465
Country Life Movement Possible?, Is an Organized, 279
Court procedure, reform of, 215; need of reform of, 442; laws relative to, 554
Courts, State, legislation and, 449
Courts, American, as a Canadian Sees Them, 122
Courts, Social Problems and the, 115
Courts, The Attitude of the, Towards Industrial Problems, 116
Courts, The Need of Social Statistics as an Aid to the, 449
Courts, The, and the People, 114
Courts and Legislation, 611
Courts and Prison Labor, The, 452
Courty, G., article by, 621
Cox, Edwin P., article by, 114
Cox, Isaac J., documents edited by, 622; article by, 624
Cox, James M., 627
Cox, John, death of, 544
Cox, Zachariah, Documents Relating to, 622
Coxe, Daniel, account of English in Mississippi Valley by, 269
Craig, George M., appointment of, 389
Craig, James, 48
Crain, Richard M., 625
Cram, Captain, information desired by, 81; reference to, 83
Crane, William H., article by, 453
Crane Lake, 89
Crawford, John J., book edited by, 436
Crawford, Mr., trading post of, 332
Crawford, Theophilus, motion of, 176
Crawford, William H., statement of, 27
Crawford County, court of, 518
Credit and Currency, Elasticity of, 608
Creoles, number of, 350
Cressy, Earl H., article by, 116
Crime, The Prevalence of, in the United States, 275
Crime of 1873, 157
Criminal code, Iowa, dissatisfaction with, in 1868, 167; feature of, 187; sections of proposed, 189; revision of, 215
Criminal Justice, European Systems of State Indemnity for Errors of, 275
Criminal law, amendment and expansion of, in Iowa, 594, 595
Criminal Law and Criminology, Journal of the American Institute of, contents of, 113, 275, 450, 606
Criminal Procedure, 113
Criminal Procedure, A New System of, 606
Criminal Procedure, The Association Method in, 450
Criminal prosecutions, cost of, 211; report of expense of, 579
Crises, Fishers' Theory of, 115
Crisis of 1893, 157
Crittenden, John Jordan, Calendar of the Papers of, 605
Crocker, C. J., 48
Cromwell, The Fame of, 272
Crosby, J. O., 174
Crossings, railroad, law relative to, 581
Crow, Carl, article by, 608
Crow, Hidatsa and Mandan Indians, Societies of the, 613
Crow Indians, Social Life of the, 283
Crows, bounty on, 587
Cruikshank, J. P., article by, 126, 132
Cruzat, Francisco, complaint of, 328, 329
Csakvar, county of, 490
Cuivre River, 33
Culbertson, William S., article by, 451
Culture, The Principal of Limited Possibilities in the Development of, 624
Culverts, construction of, 553, 567; fund for, in townships, 568
Cumberland Road, 131
Cummins, Albert B., 164
Cunningham, W. J., article by, 275
Cupar, Abbey of, Original Charters of the, 1219-1448, 448
Curators, Board of, 469
Curran, Henry H., article by, 607
Currency, regulation of, 149
Currency Act of 1890, 157
Currency Bill, The Administration, 615
Currency Question, The Crux of the, 607
Currier, Charles W., article by, 113, 272
Curtis, Elisha B., article by, 127
Curtis, General, delivery of prisoner to, 253
Curtis, Henry C., gift of, 473
Curtis, Henry O., 473
Curtis, Henry S., article by, 609
Curtiss, Adelaide, article by, 294
Curtiss, Samuel, mission of, 341
"Cush-og-wenk", The Indian Village of, 130
Custodial farms, district, tax for, 576
Cutts, M. E., opinion of, 219

Dablon, Father, 132
Daffan, Katie, 467
Daggett, Stuart, article by, 275

Dahlberg, Charles L., article by, 621
Dairy and Food Commissioner, State, duty of, 574; rules established by, 585; appointment by, 585
Dairy Commissioner, 426
Dakota family, divisions of, 261
Dale, Horatio F., sketch of life of, 372
Dallas County, Whigs in, 67; early visit to, 84; dragoons in, 108
Dance Associations of the Eastern Dakota, 453
Daniels, Josephus, article by, 465
Dante as the Inspirer of Italian Patriotism, 449
Danube River, escape by way of, 510
Danville (Illinois), 313
Danville and Danville Township, Life and Influence of, 622
Darling, Carlos P., article by, 118
Davenport, Democratic Convention at, 57; railroad at, 64; city of, 223; Pike on site of, 300; barracks at, 301; first national bank opened at, 456; smoke nuisance in, 573
Davidson, Philip G., article by, 460
Davis, Andrew J., 473
Davis, George B., article by, 446
Davis, Jefferson, Recollections of the Prison Life of, at Fortress Monroe, Virginia, 610
Davis, Timothy, nomination of, for Congress, 52; biographical sketch of, 54; votes for, 67
Davis County, prominent citizen of, 249; resolution of Board of Supervisors of, 255
Davol, Ralph, article by, 118
Dawson, Albert F., 300, 457
Dawson, James, nomination and defeat of, 66, 67
Dawson, Miles M., article by, 610
Dayton (Ohio), negroes at, 603
Dead Head, mines at, 526
Dead Sea, exploration of, 61
Deaderick, Mr., 354
Deaf, School for, tax for, 576; admission to, 577, 578
Dean, Henry Clay, Glimpses of, 132
Deardorff, Neva R., article by, 272
De Bey, Dr., 222
De Bey, Dr. Albert, incorrect reference to, 222
De Bey, Rev., incorrect reference to, 222
De Boer, Mr., 222
Debreczin (Hungary), convention at, 492; university at, 497
Debt, public, funding of, 149; State, limit placed on, 597
Debts, regulation concerning, 8
Decalogue be Repealed?, Shall the, 448
Decatur County, Hungarian colony in, 479; settlement of Hungarians in, 485; Varga's life in, 499; use of county funds by treasurer of, 500, 501; Germans lured to, 503; life of exiles in, 514-516; Mormon community in, 516
Decatur County Historical Society, meeting of, 134
Declaration of Independence?, Who Wrote the, 620
Decree of April 6, 1830, Causes and Origin of, 461
De Dreux, Chevalier, 327
Deemer, Horace E., comment of, 436, 438; review of *Code of 1897* by, 443
Deer, range of, 79, 80; herds of, 237
Defectives, provision for, 577
De Forrest, J. P., appointment of, 51
Delassus, Carlos Dehault, petition to, 10; grants issued by, 11, 15, 25; land claim of, 34, 35
Delassus, St. Vrain, land grant to, 13
Delauney, David, land claims of, 25
Delaware battle-ground, 86
Delaware County, Whigs in, 67
Delaware Indians, account of murder of, by Sioux, 86, 87
Delaware State Society of the Cincinnati, pamphlet published by, 112
Delegates, selection of, to National conventions, 550
De Lemos, Manuel Gayoso, instructions issued by, 7, 8
Delinquents, State provision for, 578, 579
De L'Isle, William, map made by, 325
De Luziere, Pedro Delassus, recommendation of, 10, 11
Deming, William C., article by, 446
Democracy, supporters of, 147; early exponents of, 147, 148; cause of extension of, 150; rise of new, 150, 151; victory of, against slavery, 152; business opposed to, 152; bosses attacked by, 153; manifestations of, in West, 165; Jackson's support from, 321
Democracy, Europe's Many-Sided, 278
Democracy and Literature, 450, 465
Democracy and the Constitution, 607
Democratic Convention, First District, meeting of, 47; platform of, 48, 49; Second District, meeting of, 55; records of, 55; resolutions of, 57
Democratic Party, strength of, in Iowa in 1848, 39, 67; principles advocated by, 41; Whig denunciation of, 45, 53, 61, 63; congressional nominees of, 48, 55, 59; evolution of, 149; origin of planks in platform of, 154; greenbacks favored

by, 154; economic issue of, 159, 160; convention of, in 1896, 160; radicals and conservatives in, 160, 161
Democratic Party, The, 112
Democrats, influence of, in early Massachusetts, 148
Democrats and the Tariff, The, 272
De Montcalm, Marquis, 610
De Niza, Marcos, 282
Denmark, Social, 115
Dent, F. H., article by, 608
Dentistry, law relative to practice of, 593
Denver (Colorado), 611
Dependents, provision for, 576
Dermitt, H. Marie, article by, 278
De Roode, Albert, article by, 609
Derry, Elder Charles, Autobiography of, 456
Deschamps, Don Enrique, article by, 113
Desgranges, Monsieur, 327
De Smet, Pierre Jean, fame of, 346, 355; first mission of, 346; sketch of life of, 346, 347; arrival of, in western Iowa, 347; mission house of, 348; mission work of, 349; village described by, 349; journey of, to Sioux Indians, 350, 351; work of, for Nicollet, 351; liquor traffic described by, 351, 352; mission of, to Flatheads, 353, 354; letters of, on West, 355
Des Moines, earliest history of, 71; visit to, in 1873, 237; nature of town of, in 1850, 485; main sewers in, 563; garbage disposal in, 573; smoke nuisance in, 573; weight standards transferred to, 585; pioneer of, 618
Des Moines, The Banking History of, 455
Des Moines College, history of, 289
Des Moines County, Free Soilers in, 67; soldier of, in Civil War, 619
Des Moines factory, 518
Des Moines Pioneers, meeting of, 300
Des Moines Rapids, trading house above, 517
Des Moines River, expedition to source of, 68, 75; floods of, in 1844, 81, 82; description of upper, 91; search for sources of, 92; source of, 93, 96, 97; English traders on, 328, 329; Ioway village on, 328, 330, 331, 332, 335; need of Spanish troops on, 329; dragoon expedition up, in 1844, 360; Indian hunt upon, 363; early steamboat race on, 460; crossing of, by train in 1812, 539
Des Moines River Grant, liberal construction of, 64
Des Moines trading-house, reports of, 517, 518
Des Moines Valley, description of, 76, 77, 78; journal of expedition up, in 1844, 84-96; reference to, 237
Des Moines Valley Railroad, notoriety of, in Holland, 227
Des Moines Weekly Leader, The, extracts from, on code, 393, 394, 395, 396, 398, 401
De Soto's Line of March, 110
Desperadoes, early day, 289; fight against, 465
De Tocqueville, observation of, 221
De Tonty, Henry, romantic story of, 601
Detroit, government factory at, 518; plans for capture of, 602; expedition against, 602
Deutsch - Amerikanische Geschichtsblätter, end of, 626
Deutsch - Amerikanischen Historischen Gesellschaft von Illinois, Jahrbuch der, contents of, 626
Deutscher Auswanderer, Briefe, 626
De Vaca, Cabeza, 282
Devil's Lake, dragoon expedition to, in 1845, 262; Indians near, 263
Devine, Edward T., article by, 116, 117, 279, 450, 452, 610; book by, 123, 616
Devitt, E. J., article by, 622
Dewey, John, article by, 451
De Wolf, Sherman W., appointment of, 439
Dexter, Franklin B., book by, 276, 604
Deyoe, Albert M., address by, 286; article by, 455
Dick, W. J., article by, 271
Diet, Hungarian, member of, 490, 495
Diet, The Report of the, publication of, 505
Dietrich, William J., article by, 610
Dilley, Alice, article by, 455
Dillon, John F., 457
Diplomatic Affairs and International Law, 281
Diplomatic Relations, A Century of Anglo-American, 610
Dipsomaniacs, 441
Disarmament, A Speculation as to, 449
Discrimination, trade and commerce, 584
Diseases, animal, 587
Diseases, Common, 288
Distilleries, erection of, 14; land grants for, 23, 24
District courts, law relating to, 553, 554
District Courts, United States, land claims in, 29
Ditches, construction of, 5
Divorce, The Bases of, 450
Divorce legislation, history of, in Iowa, 470
Dixon, James M., article by, 130
Dixon, Joseph M., 164
Docks, Public, Department of, creation of, 584

Dodd, William E., address by, 450; article by, 465
Dodge, Grenville M., article by, 465; collection of papers of, 467
Dodge, Henry, 281; letter of, relative to Indian complaints, 342
Dodge, Israel, land grant to, 12, 32
Dogs, protection against, 587
Dollar, A Compensated, 275
Dollar, Compensated, Possible Complications of the, 609
Dollar, Compensated, The Plan for a, 447
Dollar, Standardizing the, 451
Dolley, J. N., article by, 121
Dolliver, Jonathan P., speech of, 164
Dolores, Juan, essay by, 612
Domestic relations, laws relative to, 594
Domestic science, teaching of, 591
Donaldson, James L., appointment and services of, 18-25
Donegal County, Ireland, The Scotch Settlers of, 133
Donegan, M. F., article by, 122
Donelson, charge at, 290
Doniphan, Colonel, statement of, 72
Donnell, Camilla T., article by, 463
Doolittle correspondence, 448
Dorion, Pierre, 331, 333
Double Standard, The, in Regard to Fighting, 114
Doubleday, O. E., resolution of, 382, 383
Douglas, Richard, Speech of, 626
Douglas, Stephen A., anniversary of birth of, 467
Douglas, Stephen A., in 1854, The Germans of Chicago and, 626
"Dover Green", Unveiling and Presentation of the Monument erected on, 112
Dowell, C. C., appointment of, 409
Dower, right of, 427
Downey, Ezekiel H., book by, 123, 135; paper by, 136
Dragoons, First Regiment of, expeditions of Company I of, 68, 70, 73; duties of, 71, 258; report on expedition of, in Territory of Iowa, 73-83; provisions of, 74; route of expedition of, 75; buffalo shot by, 80, 97, 101; journal of march of, 84-108; hardships of, 88, 89, 104, 105, 106; expeditions of, into Indian country, 259; companies B and I, expedition of, in 1845, 260-266; expedition of, into Iowa, 345; force of, in western Iowa, 354, 356; Allen's expedition of, 360, 361
Drahos, Mr., 503
Drainage, 5; recent legislation relative to, in Iowa, 587, 588
Drake, Francis M., recommendation of, 378; extra session called by, 399; code advice of, 400; view of, on work of extra session, 400; comments of, on code, 427, 428
Drake, Sir Francis, voyage of, 297
Drake, Jeannette M., article by, 615
Drama, The German, in English on the Philadelphia Stage, 463
Draper, Arthur C., address by, 611
Draper, Lyman C., view of, 330
Draper Manuscripts, compilation from, 269
Driftmier, Benjamin, article by, 130
Driscoll, Clement J., article by, 607
Dryden, John Fairfield, 1839-1911: In Memoriam, 111
Du Bois, W. E. Burghardt, article by, 279, 609
Dubuque, Julien, land claim of, 25; activities of, 330
Dubuque, want of railroad at, 55, 56, 59, 64; city of, 223; Indian prisoners sent to, 262; history of churches at, 284; two statesmen of, 300; fountain in Jackson Park in, 300; Camp Union at, 473; lead mines below, 526; smoke nuisance in, 573
Dubuque County, Early Settlers' Association of, reunion of, 630
Dubuque Telegraph-Herald, articles in, 284
Dubuque Weekly Times, The, suggestion of, 201, 203
Dudley, Albert C., article by, 131
Duffy, Frank, article by, 276
Duffy, Thomas J., article by, 610
Duguia, flight of, 529, 531; cowardice of, 533
Du Luth, Daniel Greysolon, 269; explorations of, 601
Dunbar, John, mission of, 341; attack on, 349
Duncan, James, article by, 607
Duncombe, John F., resolution of, 191, 197
Dungan, Warren S., life of, 459
Dunham, George W., appointment of, 431; bill of, 438, 439
Dunlap, Maurice P., article by, 608
Dunlap, Mrs. Rose B., compilation by, 269
Dunlavy, C. A., 249
Dunlavy, Harvey, political life of, 249
Dunlavy, H. D., acknowledgements to, 250
Dunlavy, James, heroism of, 248, 250; sketch of life of, 249; enlistment of, 249; children of, 249, 250; present home of, 250; acknowledgements to, 250; capture of General Marmaduke by, 251, 252; delivery of prisoner by, 253; wound received by, 253; pistols presented to, 254, 255; letter to, 254; testimonials to, 255; medal of honor presented to, 256; bravery of, 257

Dunlavy, S. W., 259
Dunn, Henry W., 299
Dunn, Jacob P., article by, 625
Dunn, Nellie P., article by, 451
Dunn, Samuel O., article by, 451
Dunne, James, motion of, 176
Dunsmore, Walter T., article by, 275
Durba, George F., article by, 608
Durley, Ella H., book by, 287
Durrett, Reuben T., article by, 278
Durrett, Reuben Thomas, 278
Durst, Godfrey, article by, 455
Du Sablon Plain, 327
Dutch Colonies of Iowa in 1873, An Eminent Foreigner's Visit to the, translated by JACOB VAN DER ZEE, 221
Dutch language, changes in, in America, 231
Dutch Reformed Church, congregations of, in Iowa, 232
Dyer, John Lewis, adventures of, 444
Dyess, Professor, article by, 296
Dysart, Joseph, 174

Eagle Lake, 91
Earl, Charles, article by, 273
Early, Charles L., appointment of, 379; report of, 380
Earthquakes in Missouri, The New Madrid and Other, 622
Earth's Early Ages, 118
East, ideals of, 322
East Burlington (Illinois), 223
East Orange (Iowa), town of, 246
Easter Island, the Mystery of the Pacific, 113
Eaton, Arthur W. H., article by, 621
Eaton, William, 419
Ebersole, E. C., code copyrighted by, 405; view of, on code annotations, 406, 407; work of, as editor of code, 407, 408; election of, as code editor, 414; sketch of life of, 421, 422; duty of, 423; note of, in code, 424; statement of, as to annotations, 426, 427
Eckenrode, H. J., article by, 113; reference to, 604
Economic Association, American, meeting of, 139, 451; constitution of, 609
Economic conditions, party system based on, 147, 149, 150; Democratic Party conquered by issue of, 159, 160
Economic Review, The American, contents of, 115, 451, 609
Economic Theories, The Background of, 449
Economic Thought, The Reconstruction of, 116
Economics, Modern, 607
Economics, The Quarterly Journal of, contents of, 115, 275, 447, 605
Eden, Robert, governorship of, 294
Edmonds, John, article by, 292
Edson, Mrs. Charles F., article by, 114
Education, vocational, 115; history of, in Iowa, 470, 628; recent legislation relative to, in Iowa, 591-593
Education, State Board of, changes proposed by, 120; president of, 420; reference to, 575; duty of, 587; coördination policy of, 600
Education, Board of, Biographical Sketches of, 456
Education, Higher, in the United States, Present Standards of, 457
Education, Industrial, for Iowa, A System of, 120
Education, Journal of, article in, 628
Education, Modern, The Demands of, 286
Education, Social Principles of, 616
Education, The Relation of, to Government, 121
Education, Vocational, 274
Education and Industrial Peace, 116
Education for Social Efficiency, 457
Educational institutions, millage tax for, 283; liberal appropriations to, 598, 599
Educator, pioneer, 618
Edwards, G. W., 210
Edwardsville (Illinois), pioneer of, 316
Egbert, Fidlar & Chambers, 434
Eiboeck, Joseph, sketch of life of, 139
Elder, Samuel J., article by, 112
Eldora, school at, 578
Election, congressional, of 1848, history of, 38-67; nature of campaign preceding, 41, 57-66; official returns of, 67; judges of, in townships, 551
Election law, 378
Elections, winning of, 162; municipal report on, 375, 376; legislative provisions relative to, in Iowa, 549-552
Elective offices, number of, 322
Electric Lighting and Miscellaneous Applications of Electricity, 123
Electric Power from the Mississippi, 284
Electric roads, aid of, 581
Electricity, transmission of, 582
Elgin, Lord, in Canada, 1847-1854, 112
Eliot, Charles W., 300; article by, 610
Eliot, John, life of, 444
Elk, range of, 79, 80, 85; hunting of, 289
Elkins, Abram I., article by, 451
Elliott, Charles, letters of, 295
Elliott, Howard, rise of, 619
Elliott, James B., article by, 620
Elliott, Richard S., report of, 359
Elliott, T. C., article by, 130, 624
Elliott, William, 472
Elliott, W. P., article by, 125, 290, 460

Ellis, Lyman A., motion of, 387; appointment of, 409, 416, 420; resolution of, 417, 419; reference to, 420; sketch of life of, 421
Ellis, Robert W., article by, 285
El Paso, Beginnings of, 129, 295
Elwood, Lee, 299
Ely, L., report presented by, 51
Emancipation, Social Effects of, 279
Embargo Act, reason for opposition to, 149; effect of, 525, 526
Embrey, Alvin T., article by, 608
Emery, Henry C., article by, 272
Emery, James A., article by, 114, 448
Emmet County, dragoons in, 89
Emmetsburg, 88
Employees, option of, 589
Employees' Accident Compensation Law, The Need of a New Federal, 273
Employers, book on liability of, 140; option of, 589; duty of, 591
Employers' Liability Commission, members and work of, 139, 140; appointment of, 442; report of bill by, 588
Employers' Liability in Cases of Assignment and Garnishment, 120
Engineer, civil and sanitary, 572
Engineer Cantonment, 335
Engineering, College of, proposed removal of, from State University of Iowa, 121; famous graduate of, 125
Engineering, Dean of, duty of, 567
Engineering Experiment Station, bulletin of, 284
Engineers, County, appointment of, 567
Engineers, efficiency, employment of, 557
Engineers, Brotherhood of Locomotive, controversy between railroads and, 274
England, Minnie T., article by, 115
England, North, heath of, 243; Nelson's inspiration in, 308; colonists of, 321; war between France and, in Canada, 326
England, Our Unfought War with, 117
England, Pre-Revolutionary Sentiment in, 118
England, The Origin of the National Customs-Service of, 115
England, The Political Activities of the Baptists and Fifth Monarchy Men in, 293
English, Spanish opposition to, 7; Indian friends of, 261; presents of, to Indians, 261; Indian descendants of, 263; explorations of, beyond Alleghenies, 268; French allies against, 327; relations of, with Indians, 327, 328; trade of, with Indians, 328; influence of, on Indians, 519, 525, 532, 542
English Politics, Present, Under-currents in, 112
English Trade in the Baltic During the Reign of Elizabeth, 272
Eno, Joel N., article by, 450
Ensign, Forest C., paper by, 469
Entomologist, State, salary of, 556
Epidemiologist, 598
Epileptics, State Colony for, tax for, 576; provision for, 577
Epimanes, Antiochus Epiphanes, 613
Ericson, Hon. Charles John Alfred, A Biography of, 621
Erie Canal, Early History of the, 117
Esarey, Logan, monograph by, 118; article by, 131, 625; magazine edited by, 625
Eschenbach, Marie von Ebner, 451
Eshleman, John M., article by, 277
Espinosa, Aurelio M., article by, 624
Essex County, Newspaper Items Relating to, 464
Essex Institute, report of, 468
Essex Institute Historical Collections, The, contents of, 127, 291, 464, 620
Estes, L. V., article by, 614
Ethnology, American, Bureau of, work of, 136; bulletin of, 275
Ethnology, American, Twenty-Eighth Annual Report of the Bureau of, contents of, 614
Ethnology, The Teaching of, in Indian Schools, 612
Europe, sympathy of, with Hungarians, 493
European States, Crime in Leading, 275
Evangelical Alliance, conference of, 221
Evans, H. K., appointment of, 379, 409; reference to, 404; resolution by, 408
Evans, William C., 196
Everett, Edward, 515
Everett, Laura B., article by, 451
Everett, Lloyd T., article by, 112
Everett (Washington), 301
Everson, N., 52
Evidence, code as, 213, 215
Ewarts, John S., article by, 116
Ewing, Thomas, Diary of, 131; *The Autobiography of,* 296
Executive, encroachments of, in 1848, 53, 58
Executive Council, creation of, 202; reference to, 218; authority of, 430; work of, 434; salary of members of, 555; duty of, 595; authority conferred on, 596
Experimentation, support of, 598
Expert Administration in Popular Government, 281
Express Companies, The Rates and Practices of, 609
Extension work, support of, 598
Extra session, holding of, in 1896, 394, 398-402; action of, on code, 402-420

Factories, Iowa, contents of, 120, 284, 455, 614
Factory, government, existence of, in Iowa country, 517; buildings of, at Fort Madison, 518
Factory Inspection, A Laborer's View of, 273
Factory Inspection Machinery in the United States, The Efficiency of the Present, 273
Factory inspector, woman, 591
Fages, Pedro, Diary of, 463
Fair, State, railroad fare to, 581
Fair grounds, State, appropriation for building on, 599
Fairall, Samuel H., appointment of, 190, 197; resolution of, 191, 193, 194; reference to, 204; work of, 434
Fairchild, D. S., 136
Fairchild, Henry P., article by, 274
Fairfield, Whig convention at, 43, 44; Democratic convention at, 47; first State fair at, 298
Fairfield Sentinel, editorial in, 64
Fairlie, John A., article by, 281, 611
Fairs, county, support of, 586
Fakich, Mr., 502
Falge, Louis, article by, 295
Fallam, Robert, expedition of, 269
Fame, antics of, 248
Families, American, English Ancestry of, 117
Family and Social Work, The, 123, 616
Family expenses, liability for, 594
Family standards, 609
Farley, John Cardinal, 294
Farm, life on, thirty years ago, 618
Farm Credit in a Northwestern State, 609
Farm Management, 451
Farmers, political complexion of, 148; movement of, against railroads, 156, 157; organizations of, in West and South, 158; strength of, in political parties, 158; prosperity of Dutch, 232, 234
Farming, article on, 285
Farnam, Henry W., article by, 449
Farnum, Irving B., article by, 461
Farrand, Max, work of, 135; article by, 272, 449
Faust, Albert B., mission of, 135
Faxon, Frederick W., magazine edited by, 604
Fayette, tablet dedicated to volunteers at, 472, 473
Feamster, C. N., 605
Federal courts, decisions of, 427; code furnished to, 430
Federal Reporter, citations from, 424
Federalist Party, principles of, 149; Jefferson opposed by, 150
Federals, victory of, at Mine Creek, 250-252
Federationist, American, articles in, 113, 276, 447, 606
Fee-splitting, penalty for, 594
Feeble-minded Children, School for, tax for, 576
Fees, collection of, by State officers and boards, 557
Fellow-servant rule, 589
Fellows, L. E., 173, 436; motion of, 174
Felony, 594
Felt, B. F., Jr., 136
Femme Osage River, land grant upon, 12
Fenner, C. N., 275
Fenwick, Charles G., article by, 611
Fenwick, W., article by, 453
Ferber, Edna, book by, 287
Ferdinand, King, of Austria, 490
Ferguson, W. J., 136
Ferguson, William S., article by, 131
Ferries, 359
Ferril, Will C., article by, 282
Ferryman, A Pioneer, 455
Fertilizers, commercial, sale of, 587
Fetter, Frank A., article by, 115; address by, 451
Feuds, prevalence of, 19
Fewkes, J. Walter, monograph by, 604; article by, 614
Field, Arthur S., article by, 609
Field, J. G., nomination of, 158
Fifteenth Iowa Volunteer Infantry, member of, 371; officer of, 503
Fifty-four Forty or Fight, The Mississippi Valley in the Movement for, 110
Filipino Youth, The, 280
Fillmore, Millard, praise of, 53; letter of, to Ujházy, 485, 486
Filson Club, The, 278
Finance, Party, The Democratization of, 281
Finch, Parley, resolution of, 382, 402, 403; appointment of, 414; report submitted by, 416; sketch of life of, 421
Fines, remission of, 376
Finger Prints, Origin of — Their Use in Banks, 285
Finley, John P., article by, 280
Finley, W. W., address by, 121
Fire, protection against, in Iowa, 570, 571
Fire-arms, act relative to, 571
Fire departments, act relative to, 571
Fire escapes, law relative to, 570
Fire insurance, 584
Fire insurance policies, regulation of, 440
Fire Marshal, State, law relative to, 571, 572
Firemen, pensions for, 576
Fires, report of causes of, 571

Firth, C. H., article by, 606
Fish, Carl R., article by, 296
Fish, Hamilton, letter of, to Ujházy, 483, 484
Fish and Game Warden, 426; salary of, 555
Fish and Game Wardens, Assistant, appointment of, 557
Fish Commissioner, abolition of office of, 426
Fish Lake, 91
Fisher, Irving, article by, 275, 451, 609
Fisher, Willard C., article by, 447
Fitch, John A., article by, 273
Five Mile Bill, passage of, 575
Flack, Horace E., notes by, 115, 611
Flag, law relative to, 595
Flagg, Gershom, career of, 314; migration of, to Ohio, 315; journey of, to St. Louis, 316; farm of, in Illinois, 316, 317, 318; property of, 318
Flags, use of, by schools, 593
Flak, P. A., article by, 285
Flathead Indians, de Smet's mission among, 353, 355
Fleet, The Building of the, 625
Fleming, Walter L., article by, 117
Flood protection bonds, 571
Floods, valley of, 460
Florence (Nebraska), site of, 362
Florida, land claims in, 3; private land claims in, 36; land offices in, 36
Florida, Mounds of, 119
Florissant (Missouri), Jesuits at, 347
Floyd, Charles, death of, 332; grave of, 333, 334, 339; comrade of, 526
Floyd, David, 621
Floyd's Bluff, 333, 334, 339
Floyd River, crossing of, 79; reference to, 98, 103, 105
Flycatchers, Food of Our More Important, 122
Foerster, Robert F., article by, 116
Folk-Lore, American, The Journal of, contents of, 129, 462, 624
Font, Pedro, Diary of, 464
Fontaine, Imogen, article by, 279
Food, pure, laws relative to, 163, 574; violations of law relative to, 585
Ford, J. F., article by, 286
Ford Timothy, Diary of, 128
"Forests, Missionary to the", 444
Forgan, James B., article by, 615
Forsyth, L. N., article by, 294
Fort Atkinson (Iowa), Allen's march to, 70, 74; history of, 81; reference to, 85; establishment of, 258; dragoon expedition from, 259
Fort Atkinson (Nebraska), 335
Fort Belle-Vue, Indian attack on, 544, 545
Fort Brady, troops at, 68
Fort Calhoun (Nebraska), site of, 331
Fort Clark, factory at, 517
Fort Crawford, government factory at, 518
Fort Croghan, establishment of, 356; Audubon's visit to, 357, 358; end of, 359
Fort Dearborn, 70; fur trade at, 312; Hubbard's trail to, 313
Fort Des Moines, Second, establishment of, 71; march from, 74; return of expedition to, 76; return of dragoons to, 108; purpose of establishment of, 258; expedition from, in 1844, 259, 360, 361; commandant of, 260, 360; Oregon emigration by way of, 359, 360
Fort Dodge, founding of, 85; visit to, in 1873, 237; early hotel of, 238; county seat contest won by, 459
Fort Dodge and Webster County, Iowa, History of, review of, 444, 445; reference to, 458
Fort George, expedition against, 327
Fort Gibson, troops at, 70
Fort Hall, trip to, 271
Fort Hill Indian Cemetery, 466
Fort Janesville, 289
Fort John, monument on site of, 471
Fort Kaskaskia, 463
Fort Laramie, trip to, 271
Fort Leavenworth, troops at, 70; expedition from, to Fort Snelling, 92; site of, 326; establishment of, 335; expedition from, 345; dragoons sent from, to Iowa, 354, 356
Fort L'Huillier, 324
Fort Lisa, 334; steamboat at, 335
Fort McArthur Memorial Tablet, 626
Fort Madison, Old, attack on, in 1812, 330; selection of site of, 517; burning of, 517; trading operations at, 518; goods for Indian trade at, 519; plans of attack on, in 1808, 519, 520, 521, 522; construction of, 520, 521, 525; visit of Iowa Indian to sutler at, 521, 522; failure of Indians to capture, 523, 524; ensign at, 527; Hunt's flight and return to, 533-538; train from, to St. Louis in 1812, 539; Johnson's letter from, 542; Indian attacks on, in 1812, 543-545; description of, 544; burning and evacuation of, 545; part of, in westward expansion, 619
Fort Madison, Old: Some Source Materials, 517
Ft. Madison, convicts at, 579
Fort Meigs, Siege of, and "Dudley's Defeat", 463
Fort Osage, Indian trade at, 335; factory at, 517

Fort Osco of the Alleghans, 613
Fort Pitt, command of, 269
Fort Raccoon, name of, 71
Fort Recovery Monument, Unveiling of, 628
Fort St. Anthony, 336
Fort Sandoski, Old, of 1745, 626
Fort Sandusky, Old, and the De Lery Portage, 130
Fort Sanford, 71
Fort Schuyler, The Stars and Stripes on, 278
Fort Scott, 253; presents of citizens of, 254, 255
Fort Snelling, expedition to, 92; Indian prisoner at, 101; dragoons sent to, 260; establishment of, 260; prisoner sent to, 266; name of, 336
Fort Vermilion, de Smet at, 353
Fort Walla Walla, journey to, 624
Fort Wayne, government factory at, 518
Fortier, Alceé, address by, 293
Forts, Spanish, in Louisiana, 4; construction of, by government, 258; United States, dragoons at, 260
Forty-Eighters in America, A Political Prophecy of the, 626
Foster, Corra B., book by, 291
Foster, George B., article by, 279
Foster, M. H., article by, 280
Foster, W., article by, 274
Foster, Warren D., book by, 287
Foulke, William D., article by, 114; reference to, 300
Fourteenth Amendment, Contemporary British Criticism of the, 604
Fourth Wisconsin Volunteer Infantry, member of, 371
Fowke, Gerard, article by, 132
Fox River, Pioneers and Durham Boats on, 466
Foy, Samuel P., 472
France, land grants by, in Upper Louisiana, 6, 17, 18, 22, 28, 36; cession of Louisiana to, 17, 20, 329; colonists of, 321
France, The Organization of the Reign of Terror in, 134
France a Centralized State, 608
France's Way of Choosing a President, 116
Francis Joseph, Emperor, crown of, 492
Frank, Tenney, article by, 296
Frankfort, Germany, student attack on, 270
Frankfort-on-the-Main, 275
Franklin, Lieut.-Governor Michael, 294
Franklin, William S., book by, 123, 616
Franz, Alexander, article by, 626
Frauds, land, description of, 20; law for prevention of, 577, 587
Free Silver, agitation for, 155; demand for, in 1876, 157
Free Silver Party, principles of, 153, 157
Free soil, advocates of, 65
Free Soil Party, first campaign of, in Iowa, 66; member of, 445
Free Speech be Restricted?, Shall, 119
Freeman, Douglas S., article by, 114
Freeman, E. A., opinion of, 307
Freeman, George, article by, 116
Freeman, Jonathan, article by, 622
Freemason, The American, contents of, 121, 284, 614
Frémont, John C., 350; entry in diary of, 355; body-guard of, 494
Fremont County, first settlement in, 323, 363
Fremont Gazette, articles in, 284
Fremont Voters' Association, papers of, 628
French, Alice, book by, 288
French, Nathaniel, 468
French, land grants to, 6, 26; land claims of, in Upper Louisiana, 24; land claims of heirs of, 36; Indian descendants of, 263; trade of, with Indians, 325, 326; murder of, by Ioways, 326, 327; Hunt aided by, 526; coming of, to Middle West, 601
French Politics, The Drift in, 611
French Revolution, causes of, 310
French Settlements on the Great Lakes, The Early, 626
French settlers, documents concerning, 135
Frontier, early life on, 24, 25; result of experience on, 147; democracy born upon, 148; troops and order upon, 258; elements of population beyond, 352, 356; stories of, 618
Frontier Defense on the Upper Ohio, 1777-1778, review of, 269
Frontier Guards, Organization and Service of the, 621
Frontiers of Regulation and What Lies Beyond, 451
Fruits, sale of, 585
Fry, Charles, article by, 286
Fugitive, The, 458
Fuller, A. M., article by, 608
Fulmore, Z. T., 467
Fulwider, James H., 472
Funk, A. B., appointment of, 389, 402
Funk, James H., resolution and appointment of, 379, 380, 402; report of, 380
Fur trade, Hubbard's career in, 310, 311-314; early, in western Iowa, 325, 326, 328, 341; English control over, 328; competition of Astors for, 338; Spanish, 624 (See Trade)
Fur-traders, influence of, on West, 321; reference to, 472
Furey, John, article by, 294

Gaige, Mrs. Robert, 472
Galena (Illinois), Hunt's journey to, 540
Galena River, lead mines of, 526
Gallagher, M. H., article by, 117
Galland, Isaac, newspaper of, 297
Galland's, Dr., Account of the Half-Breed Tract, 297
Gallatin, Albert, letter to, 16
Galvez, reforms of, 613
Gambling, law on, 376
Game, wild, abundance of, in early Iowa, 85, 86, 88, 94, 96, 99; country of large, 95; transportation of, 426
Game wardens, deputy, 426
Garbage disposal plant, 573
Gardner, Samuel, diary of, 291
Garfield, H. A., paper by, 281
Garment Trades, The Struggles in the, 276
Garner, James W., article by, 116; reference to, 631
Garnes, George W., 44
Garretson, A. S., book by, 616
Garrett, Mitchell B., article by, 275
Garrison, Lloyd, support of, in West, 152; reference to, 515
Garst, Warren, recommendation of, 441
Garver, Frank H., research work of, 470
Gascony, 1199-1259, English Rule in, 282
Gaskill, D. L., article by, 122
Gaston, J. J., 298
Gates, Mr., 539
Gayoso, regulation of, 33
Gear, John H., home of, 138; appointment of, 190; reference to, 197; suggestion of, 211
Geiser, Karl F., paper by, 110, 134
Gelderland (Holland), 232
Gemmill, William N., article by, 113
General Assemblies, Iowa, criticism of, by press, 547
General Assembly, laws of, relative to congressional elections, 38, 39; memorial of, for railroad land grant, 56; commission provided by, 139; code revision considered by, 169, 173-178; suggestions to, relative to code revision, 169-172; Governor's message to, 172; action of, on proposed code of 1873, 188-202; Joint Committee on Revision of Statutes of, 190, 191; criticism of, 198-200; work of, 199, 202; action of adjourned session of, on Code of 1873, 203-209; newspaper comment on, 208, 219; code commission created by, 364, 365-370, 399; Twenty-sixth, action of, on report of code commission, 378-392; personnel of committees of, 381; newspaper comment on action of, 392-398; call for extra session of, 398-402; action of extra session of, relative to code, 402-420; code legislation of, 428-430, 431; consideration of code supplement in, 432-435; Thirty-second, provision of, for *Code Supplement of 1907,* 438-441; treatment of Hungarians by, 487; newspaper criticism of, 547; Thirty-fifth, things expected of, 547; criticism of work of, 547, 548; legislation enacted by, 548, 549; classification of legislation enacted by, 549-600; duty of, 550; appropriations by, 595-599; bills refused by, 600; library legislation of, 615
General Assembly, Thirty-fifth, of Iowa, The Work of the, by F. E. Horack, 546
Genet, Edmond Charles, 118, 278
Genet, Louis F. F., article by, 118, 278
Gentry, William, 298
Gentz, Friedrich, an Opponent of the French Revolution and Napoleon, 453
Geography, The New Science of, 113
Geological Survey, law on, 426
Geology, features of, in Iowa, 80
Geology, Structural and Historical, Laboratory Exercises in, 458
Georgia, farmers in, 158; Iowa troops in, 254; roads in, 285
Georgia, Negro Tales from, 128
German Drama in English on the Philadelphia Stage, The, 621
German Fiction, The American Indian in, 621
German in the Public Schools, 463
German Patriotism, Lincoln and, 626
German Poems, 1800-1850, 124
German American Annals, contents of, 463, 621
German-American Historical Society of Illinois, publication of, 626
Germann, William, article by, 625
Germans, pioneer, 129, 284; removal of, to Iowa, 503; immigration of, to America, 626
Gerson, Armand J., article by, 272
Gettysburg, Lincoln Day on battlefield of, 459; celebration of battle of, 559; story of, 617
Gibault, Very Reverend Pierre, 294
Gibbons, H. H. Clifford, article by, 118, 283
Giddings, Franklin H., article by, 114
Giddings, Lieutenant Daniel, Journal Kept by, 127
Gilbertson, G. S., appointment of, 389
Gilbertson, H. S., article by, 608
Gilder, Robert F., article by, 296, 621
Gill, Eliza M., article by, 291, 461
Gillette, Halbert P., book by, 457
Gillette, John M., article by, 283
Gillies, George L., 628
Gillin, John L., research work of, 470

Gilman, Mrs. Charlotte P., article by, 609
Gilson, Roy R., book by, 287
Ginn, Edwin, pamphlet by, 604
Girardeau, Cape, settlers at, 7
Girls, Industrial School for, 578
Gist, G. W., letters of, in 1832, 278
Gist, Margaret, article by, 278
Given, Josiah, resolution of, 213
Given, Welker, 139
Gladden, Washington, article by, 611
Gladstone, William E., 307, 309, 459
Glasgow, J. D., article by, 286
Glasgow, Mr., book by, 614
Glasgow, Hungarian refugee at, 510
Glocker, Theodore W., article by, 447
Goddard, Pliny E., article by, 119, 283; book by, 282
Goebel, Julius, book edited by, 626
Goebel, Julius, Jr., article by, 275, 626
Gold bonds, opponents of issue of, 155
Gold Fields of Forty-Nine by Way of Cape Horn, To the, 279
Golden, John, article by, 116
Goldenstar, Arthur, article by, 120
Goldenweiser, A. A., article by, 624
Goldenweiser, E. A., article by, 115
Golder, Frank A., paper by, 134, 463
Goldmark, Josephine, article by, 279
Gompers, Samuel, article by, 113, 276, 447, 606
Gonorrhea, law relative to, 573
Good, James I., article by, 462
Goodnow, Frank J., paper by, 281
Goodwin, Cardinal, article by, 295
Good Hope (Missouri), Hungarian at, 496
Gordon, Captain, expedition of, 340
Gordon, George Augustus, 128
Gordon Craig, 124
Görgei, General, treaty effected by, 479; surrender of, 493, 498; loneliness of, 501
Gorrell, James, activity of, in Upper Mississippi country, 327, 328
Gorrell, J. R., motion of, 367
Goshen (Ohio), Indian congregation at, 466
Gosiute Indians of Utah, Place and Personal Names of the, 446
Gould, Clarence P., monograph by, 447
Government, control of, 153
Government, 455, 615
"Government, The Invisible", Under Searchlight, 608
Government, The Social Aim in, 451
Government, Two Ideals of, in American History, 453
Government of Men, A, 281
Governor, duty of Spanish, 21; pardoning power of, 376; need of increasing power of, 547; counting of votes for, 552; powers granted to, 553; appointments by, 567, 589; appointment of Commissioner of Insurance by, 583
Governor-General, Spanish, power of, 4, 5
Governors, Old Palace of, at Santa Fé, 471
Governors, Conference of State, speech before, 546
Graham, Mr., 544
Graham, R. B. C., article by, 274
Grain, growth of, in Iowa, 225; sale of, 585
Grand Army of the Republic, encampment of, in 1913, 459
Grand jury, proposed abolition of, 189
Grand Rapids (Michigan), Dutch at, 234
Grange, history of, 602
Granger movement, manifestations and effects of, 603
Granger Movement, The, 602
Granger Party, principles of, 153, 156; victory of, 157
Grangerism, 322
Granite, beds of, 80, 82
Grannis, H. J., grave of, 473
Grant, James, 457
Grant, Ulysses S., bill vetoed by, 154
Grant, General U. S., Some Characteristics of, 465
Grant, The Unpublished Letters of, 117
Grant and the Third Term, 117
Grapes, culture of, by Hungarians, 488
Gras, N. S. B., article by, 115
Gray, L. C., article by, 447
Gray, Thomas, 472
Great Kanawha River, frontier post on, 270
Great Northern Railroad, Hill's valedictory to stockholders of, 608
Greed, denunciation of, 163
Greeley, Horace, campaign of, 126; reference to, 515
Green, Charles R., publication by, 454, 613
Green, John W., 205
Green Bay, French at, 326; Indian trade at, 329; government trade at, 518
Green's Historical Series, 454, 613
Greenback currency, basis of, 492; reference to, 496
Greenback Movement, Economic Basis of the, 468
Greenback Party, principles of, 153, 155; growth of, 154; strength of, at elections, 155; reference to, 445
Greene, Evarts B., article by, 623; reference to, 631
Greene County, dragoons in, 107
Greeno, Follett L., book by, 604
Gresham, Walter, political career of, 159
Griffin, J. S., part of, in expedition, 74;

theft of horse of, 99, 100, 101; reference to, 104
Griffin, Martin I. J., periodical published by, 128; compilation by, 292; article by, 464, 622
Griffin, Patrick, 135
Griffith, Helen S., book by, 123
Griffith, Sergeant, 539
Grimké, John Faucheraud, Order Book of, 128, 462, 623
Grindstone War, 289
Grinnell Review, The, contents of, 121, 285, 455
Grinnell-China Education Movement, The, 121
Groat, George G., article by, 116
Gros Wardein (Hungary), 512
Groseilliers, visit of, to Iowa country, 132; exploration of, 268, 269
Groves-Lincoln Monument, 459
Grow, Galusha A., statement of, 487
Grow, Oscar, book by, 287
Guadaloupe Hidalgo, treaty of, 41
Guardians, 583
Guilford Court House, The Battle of, 450
Guinn, J. M., article by, 130
Guittar, François, reminiscence of, 345
Gunsolley, J. A., 135

Hackett, Charles W., article by, 129, 295
Hackler, C. W., appointment of, 439
Hackworth, J. T., 628
Hadley, H. E., 136
Hadley, Messrs., 319
Hageman, F. P., 299
Hager, Levi, 471
Hague Conferences 1899 to 1907, Instructions to the American Delegates to the, 448
Hainer, E. J., reminiscences of, 492, 498, 501
Hainer, Ignace, appointment of, to professorship, 505, 507; removal of, to Iowa, 506, 507; later life of, 507; daughter of, 511
Haines, Charles G., article by, 278
Hakluyt Society, documents of, 297
Hale, William B., article by, 280
Half Breed Tract, study of, 470
Half-Breed Tract, Dr. Galland's Account of the, 297
Half-breeds, Red River, inroads of, into United States, 261, 262, 263; ancestors of, 262; description of life of, 263; Sumner's message to, 263, 264; Nicollet's report on, 263; number of, 264, 265; hunts of, 264, 265; danger of, 265; French, 347; Jesuits received by, 348
Halifax, Early Reminiscences of, 294
Halifax, N. S., History of St. Matthew's Church, 294
Hall, Augustus, motion of, 48; appointment of, 50
Hall, Benton J., 196
Hall, Mrs. Catherine, 472
Hall, Fred S., article by, 607
Hall, Jacob, Surgeon and Educator, 624
Hall, William, article by, 117
Hallock, Charles, article by, 613
Hamann, Albert W., appointment of, 434
Hamblin, Dr. H. M., 469
Hamburg (Germany), 493; Hungarian at, 499
Hamilton, Alexander, political opinions of, 149
Hamilton, Alexander, and the Grange, 117
Hamilton, George, commission of, 129
Hamilton, Henry, letters of, 270; reference to, 602
Hamilton, J. B., 48
Hamilton, Lieutenant, 544
Hamilton, Thomas, order of, 545
Hamilton of Kincavil, 274
Hammond, M. B., article by, 609
Hammond, William G., newspaper edited by, 170; sketch of life of, 179, 180; work of, on code, 181-188; reference to, 190, 201; appointment of, 196
Hand, Edward, letter of, 269; frontier protected by, 270
Hanford, Cornelius H., article by, 132
Hanna, Charles A., article by, 466; answer to, 626
Hanna, George W., article by, 299
Happiness, The Quest of, 616
Hapsburgs, line of, in Hungary, 481
Harbors, western, improvement of, 45; need of improvement of, 53
Hardin, David, arrival of, in western Iowa, 344; reference to, 350; family of, 353
Hardin Creek, 108
Harlan, A. W., Journal of, 621
Harlan, Edgar R., address by, 298
Harlan, James, contest of, for office, 43; biography of, 135, 628
Harlan, James, 616
Harmon, M. W., report of, 366
Harper, T. G., appointment of, 388, 389; opinions of, on code revision, 394
Harper's Ferry in 1862, The Cavalry at the Siege of, 446
Harris political science prizes, award of, 630
Harrisburg Volunteer Company of Artillery, Orderly Book of, 625
Harrison, A. G., appointment and services of, 31, 32
Harrison, Fairfax, article by, 608

Harrison, Susie B., compilation by, 273
Harrison, William H., victory of, at Tippecanoe, 527, 528
Harrison County, Lewis and Clark in, 332; prominent men and women of, 459
Harrison County, Iowa, Prehistoric Village Sites of, 296
Hart, Albert B., address by, 281; book by, 281
Hart, Mr., trading post of, 345
Hart's Bluff, information about, 345; reference to, 357
Hartford, Original Distribution of the Lands in, 292
Hartzell, R. M., article by, 619
Harvey, C. Cleland, article by, 606
Harvey, J. W., 135
Harvey, Thomas H., visit of, to Iowa, 363
Harwood, Herbert M., article by, 289
Hasty, Charles Carter, 290
Hatch, Hiram B., 618
Hatfield, Clarence E., book by, 287
Havens, Joseph W., 196
Hawk, Henry, 298
Hawkeye Creek, flood in, 460
Haworth, George, letters of, 625
Haworth, Paul L., paper by, 110
Hay, John, article by, 448
Hayden, Horace E., article by, 130
Hayes, Edward C., article by, 274
Hayes, Hammond V., article by, 605
Hayes, P. J., article by, 294
Hayes, W. I., 404; appointment of, 409
Hayes Memorial Museum and Library Building, 627
Haynes, Fred E., study of third party movements in Iowa by, 147; sketch of, 302; research work of, 470
HAYNES, FRED E., *Forward Movements in Politics Since the Civil War,* 147
Haynes, George E., article by, 279
Haynes, John R., article by, 114
Hazard, Blanch E., article by, 275
Hazlet, John, 473
Health, laws on, 441; public, laws relative to, in Iowa, 572-575
Health, State Board of, reorganization of, 572
Health and the Nations, 117
Healy, Thomas D., appointment of, 431; bill reported by, 433
Healy, William, article by, 606
Heard, Mary K., 469
Heaton, Hiram, 298, 469
Heaton, James P., article by, 117
Hebrew People, The Exile and Its Effect upon the, 613
Hecht, Mrs. Fred, 472
Hedges, Job E., article by, 462
Hedges, Mrs. M. A., 250
Hegel, statement by, 320
Heidelberg Catechism, The, 462
Heilman, Ralph E., appointment of, 631
Helias, Father, 346
Hendershott, David, 47
Hendershott, H. B., appointment of, 50
Henderson, Archibald, article by, 277, 450, 465
Henderson, Charles R., article by, 606, 610
Henderson, David B., votes for, 52; reference to, 473
Henderson, Hon. John Brooks, 622
Henderson, Richard, life of, 277
Henn, Bernhart, 471
Hennepin, 269; explorations of, 601
Hennepin (Illinois), trading house near, 312
Henry's Mother, Patrick, 450
Henry County, Whigs of, 44, 45, 67; Democrats of, 47; Free Soilers in, 67
Henson, Canon H. H., address by, 611
Hepburn, A. Barton, article by, 121
Herbermann, Charles G., book edited by, 294
Herbermann, Henry F., article by, 295
Hero-worship, place of, in life, 307, 308
Heroes, military, worship of, 49
Heroines of Modern Progress, 287
Herrick, Myron T., 627
Herriott, F. I., article by, 626
Hershey, Amos S., article by, 276
Hervey, Grant, article by, 449
Hewitt, J. N. B., article by, 612
Heydecker, Edward L., article by, 114
Hibbard, Benjamin H., article by, 447
Hicks, Frederick C., compilation by, 276
Hico (Texas), 612
Hidatsa Indians, 613
Higday, Hamilton, article by, 451
High Lake, 89
High School, Public, The Evolution of the, 611
High Schools, tuition in, 591; State aid to, 592
Highway, public, camping on, 595
Highway Commissioner, State, duties of, 567; registration of automobile routes with, 569
Highways, construction of, 553; laws relative to use of, 569, 570
Highways, State, Financing a System of, 615
Hill, James J., article by, 274, 608
Hill's, James J., "Great Adventure", 608
Hillis, Newell D., books by, 123, 616
Hillman, E. Haviland, article by, 623
Hinke, William J., article by, 292; translation by, 462; reference to, 622

Hinkley, Julien W., article by, 620
Hinmon, S. N., resolution of, 383
Historia, contents of, 620
Historians, old school, writings of, 309, 321; trait of, 309, 310; work of, 322, 323; reliability of local, 323
Historical Association, American, meeting of Pacific Coast Branch of, 134; meeting of, 139; prize essays published by, 293
Historical Association, American, Annual Report of the, reprint from, 127; *The Meeting of the, at Boston and Cambridge,* 465
Historical Department of Iowa, Dodge papers in, 467; tablet to be erected by, 467; tablet installed at, 471
Historical Geography of the United States, Atlas of the, 135
Historical Records and Studies, volume of, 294
Historical Review, American, contents of, 131, 295, 465
Historical Societies, publications of, 126, 291, 461, 620; activities of, 133, 297, 466, 626; index of publications of, 604
Historical Societies, Local, Work of, 295
Historical Societies, Proceedings of the Seventh Annual Conference of, 127
Historical Societies, The Province of, 128
Historical Society, American, formation of, 297
Historical Society of Iowa, The State, activities of, 135, 299, 468, 627; membership of, 468; annual meeting, officers, and new members of, 469, 470; research work in, 470; appropriation to, 599
Historical Studies, Third International Congress of, meetings of, 140
Historical Studies, The London Session of the International Congress of, 614
Historical Studies to the Higher Learning, The Value of, 611
History, materials for American, in Europe, 135, 221, 222; literature of western, 281; relation of climate to, 296; viewpoints of, 307; part of plain men in, 307-310, 321; political study in, 445; writing of, in romance form, 601
History, Alumni Write, 284
History, American, Guide to Materials for, in Public Record Office of Great Britain, 135
History, American, Guide to the Study and Reading of, new edition of, 281
History, American, The Journal of, contents of, 117, 278, 450
History, Ancient, A Source Book of, 287
History, Journal of, contents of, 120, 286, 456, 615
History, Natural, American Museum of, handbook by, 282
History, Natural, American Museum of, Anthropological Papers of the, number of, 453
History, Natural, Bulletin from the Laboratories of, contents of, 455
History, Some Aspects of the Influence of Social Problems and Ideas Upon the Study and Writing of, 449
History, The Achievements and Possibilities of, 625
History and Patriotism, 450
History as Literature, 465
History Made by Plain Men, by LOUIS PELZER, 307
Hobart, Alva C., appointment of, 389
Hoboken, Hungarian promoter at, 503
Hobson, Richmond P., fame of, 248
Hodder, Frank H., article by, 466
Hoddington, A Sixteenth Century Rental of, 606
Hoecken, Father Christian, mission of, 354, 355
Hoffman, Frederick L., article by, 610
Hogan, John V., article by, 114
Hogs, law for protection of, 587
Hogue, Rollo M., article by, 625
Hokaasen, O. T., research work of, 470
Holcombe, Arthur N., article by, 117
Holder, Arthur E., article by, 276
Holland, Pullman car in, 222; stock-exchange of, 227; appearance of, 232; railroads in, 239; meadows of, 242; colonists from, 321
Holland (Michigan), life of Dutch at, 234
Holland Society of New York, Year Book of the, contents of, 621
Hollander, Jacob H., article by, 280
Hollanders, visit to, in Michigan and Iowa, 221; colony of, at Pella, 228-235; prosperity of, as farmers, 232, 234; life of, 233; tenaciousness of, 233; colony of, in Sioux County, 235, 236, 243-246
Holman, Frederick V., article by, 129
Holmes, W. H., article by, 275
Holst, Bernhart P., book by, 287
Home economics, teaching of, 592
Home Rule Question, The Present Status of the, 115
Homeopathic Medicine, College of, reëstablishment of, 593
Homestead Bill, terms of, 224; historical precedent for, 487
Hook, Wallace, book by, 123
Hooper, Osman C., article by, 130
Hope Encampment, 3
Hopkins, G. T., article by, 605
Horack, Frank E., book by, 123; paper by,

136; reference to, 469; research work of, 470; facts about, 632
HORACK, FRANK EDWARD, *The Work of the Thirty-fifth General Assembly,* 546
Horack, H. C., book edited by, 121, 123
Horn, Robert C., article by, 621
Hornaday, William T., book by, 287
Horses, theft of, by Sioux Indians, 99, 101, 262, 265, 266; search for, 100; trading of, 595
Horticulture, encouragement of, 586
Hospers, Henry, invitation extended by, 221; colony founded by, 236; guest of, 239, 241, 243; hospitality of, 246, 247
Hospers, town of, 247
Hospital trustees, city, election of, 551
Hospitality, western, 229
Hotel Inspector, duty of, 573
Hotels, law relative to, in Iowa, 574, 575
Houck, Louis, statement of, 12
Hough, Emerson, article by, 456; book by, 616
Hough's *American Constitutions,* 424
House of Representatives, State, code revision in, 176; proposed code of 1873 in, 189; action of, on report of code commission in 1896, 379-386, 402, 416
House of Representatives, United States, report to, 21
Houston, General Sam, Recollections of, 129
Houston, Sam, letters of, 295
Houston, Sam, The Whereabouts of, in 1834, 295
Howard, Benjamin, Johnson's letter to, 542, 543
Howard, Channing, article by, 621
Howard, Mr., recovery of, 260
Howard (steamer), 346
Howe, Daniel W., paper by, 110
Howe, Mrs. H. J., 298
Howe, Samuel L., nomination and defeat of, 66, 67
Howell, J. B., part of, at Whig Convention, 44, 45
Howren, Alleine, article by, 461
Hoyt, Stephen V., 290
Hrdlicka, Ales, monograph by, 275; report of, 280; article by, 294
Hubbard, E. H., life and character of, 290
Hubbard, Gurdon S., fur-trading activities of, 310, 311-314
Hubbard's Trail, 313
Huber, Margaret B., 472
Hudson, Jay, article by, 118
Hudson, S. A., appointment of, 51
Hudson Bay Company, remains of, 263; comments on, 271
Hudson Bay Route, The, 278
Hudson's Bay, The Legal Status of, 277
Huesinger, Edward W., 467
Hughes, General, 341
Hughes, Justice, opinion of, 608
Hughes, Louise, 299
Hughes, Rupert, book by, 124, 288
Hulbert, Archer B., paper by, 134; article by, 296
Hull, Mrs. Lizzie C., article by, 132
Hull, O. C., paper by, 110
Hull, O. E., 135
Humboldt County, dragoons in, 87
Hume, George, Letters from and to, 129
Humphreys, Mary Gay, book edited by, 444
Hungarian Patriots in Iowa, Some, by LILLIAN MAY WILSON, 479
Hungarians, escape of, to Turkey, 479; welcome of, to America, 480, 483, 484; settlement of, in Iowa, 485, 486; American interest in, 487; congressional provision for, 487; removal of, from Iowa, 488; character of, 490, 515, 516; sympathy of Europeans with, 493; service of, in Civil War, 494; fear of, by Austria, 512-514; life of, at New Buda, 514-516
Hungary, revolution of 1848 in, 479; letter to exiles from, 480; constitution of, 481; refugees of, in America, 481; governor of, 482, 483; return of exiles to, 489; minister of police in, 490; fate of monarchy in, 491; King of, 492; sympathy of Europe with, 493; revolution in, 497; Kossuth's hopes for, 515
Hungary, National Museum of, 495
Hunt, Charles W., article by, 456
Hunt, Colonel, son of, 542
Hunt, Dean Thomas Forsyth, Installation of, 283
Hunt, Gaillard, book edited by, 277
Hunt, George, narrative of, relative to old Fort Madison, 517-542; visits of Iowa Indian to, 521; saving of life of, 525; trade operations of, at lead mines, 526, 527; escape of, from Winnebago Indians, 528-533; flight and return of, to Fort Madison, 533-538, 542, 543; fears of, 534; journey of, across Illinois, 534-537, 543; reception of, by Sacs, 538; arrival of, at Fort Madison, 538, 542; father of, 542; Johnson's letter concerning, 542, 543
Hunt, Rockwell D., article by, 130
Hunt, Wilson P., expedition of, 334
Huntington, Ellsworth, article by, 113, 295
Hurlburt, C. G., article by, 121
Hurley, James S., resolution of, 189, 192; appointment of, 190; bill reported by, 196; reference to, 205, 206; bill of, 207
Husbandry, Patrons of, 602

Hussey, Obed, Who, of all Inventors, Made Bread Cheap, 604
Hussey, Tacitus, article by, 455
Hutchinson, Woods, book by, 124, 288
Hyde, Charles C., pamphlet by, 446

Icarus, The Fall of, Not a Myth, 613
Ida County, dragoons in, 106
Illinois, New Bourbon of, 10; municipal revenues in, 119; Greenback Party in, 155; Granger movement in, 156, 602; northern part of, 222; fur-trading era of, 310; Hubbard's career in, 311-314; American Fur Company in, 311, 313, 314; end of fur trade in, 313; story of pioneer of, 314, 316; emigration to, 316, 318; agricultural conditions of, in 1820, 317; natives of, in Iowa, 319; Spanish in, 328; Indian cession in, 339; removal of Pottawattomie Indians from, 342; gambling in, 376; county government in, 452; early trade operations at lead mines in, 526; Hunt's flight through, to Fort Madison, 534-538; Black Hawk War in, 579; centennial celebration in, 631
Illinois, A Working Program for an Adequate System of Collecting Criminal Statistics in, 606
Illinois, Early Libraries in, 623
Illinois, Taxation of Corporations in, Other Than Railroads, Since 1872, 452
Illinois country, Clark's expedition to, 270
Illinois Indians, early home of, 109
Illinois Legislature, 611
Illinois Politics before 1830, The New England Element in, 134
Illinois River, trading posts on, 312, 313
Illinois State Historical Library, Collections of the, volume VIII, 601; *The Plans of the, with Special Reference to the Care of Public Archives,* 623
Illinois State Historical Society, meeting of, 467, 627
Illinois State Historical Society, Journal of the, contents of, 463, 623
Illinois Valley, immigration to, 314
Illinois Working for Permanency in Agriculture, 278
Immigrants, Dutch, life of, in America, 234
Immigration, western, promotion of, 3, 7, 12; increase of, to Upper Louisiana, 7, 15; inducement of, by Spain, 14; objection to, 62; menace of, 112; western current of, 314, 315; beginning of, to Iowa, 339
Immigration, Walker's Theory of, 115
Imperialism, issue of, 161
Improvements, public, legislation relative to, 562-564; assessments for, 563
Income tax, advocates of, 158, 163; reference to, 600
Income Tax, The: Its Origin and Application, 448
Independence (Missouri), 84, 354
Independence, Declaration of, 208, 210, 424
Independence Lake, 91
Indeterminate sentence, law on, 378
Indeterminate Sentence, The, 122
Indeterminate Sentence and Release on Parole, 113
India, Control of Crime in, 606
Indian Affairs, Laws and Treaties Relating to, third volume of, 271
Indian-American, The, 611, 612
Indian Administration, 280
Indian Creek, 331
Indian Education, Some Facts and Figures on, 612
Indian or What?, 283
Indian Question from a Canadian Standpoint, The, 280
Indian's Property Interests, Some Suggestions for Protecting the, 280
Indiana, Greenback Party in, 155; emigration to, 315; Indians in, 316; natives of, in Iowa, 319
Indiana, Indian Captives in Early, 625
Indiana, Internal Improvements in Early, 131
Indiana, Life in, 1800-1820, 625
Indiana, State Banking in, 1844-1873, 118
Indiana Historical Society Publications, contents of, 131
Indiana History and Archives, Department of, 613
Indiana Magazine of History, 625
Indiana State Library, Bulletin of the, contents of, 111, 282, 613
Indiana University Studies, contents of, 118
Indianapolis (Indiana), party formed at, 154
Indians, early danger of, in West, 8; support and protection of, 9; land titles of, respected by Spain, 13; attacks by, 25; expedition to village of, 69; dragoons dreaded by, 70, 260; land cessions by, in West, 258; protection of, by government, 258; purpose of sending troops to, 258, 259; British and American presents to, 262; ancestry of, 280; $3000 book on, 289; trade with, in Illinois, 310, 311; check of trade of, 314; presence of, in western Iowa, 324, 325; greatest missionary among, 346; government factories for trade with, 517, 518; white invasion as viewed by, 601; protection of northern Iowa against, 621
Indians, American, Annual Conference of Society of, 138

Indians, American, Handbook of, 261
Indians, American, Religious Beliefs of the, 286, 455, 615
Indians, American, The Quarterly Journal of the Society of, publication of, 611; contents of, 611, 612
Indians, North American, of the Plains, 119
Indians of North America, Narratives of Captivity Among, 118
Indians of the Southwest, 282
Individualism, The New, 613
Industrial Commissioner, creation of office of, 556, 589
Industrial conditions, party system based on, 149, 150, 152; general discontent with, 153
Industrial Coöperation?, Are We Ready for, 608
Industrial Democracy, A New, 116
Industrial Democracy, The Horizon of, 113
Industrial Education, Some Sociological Phases of the Movement for, 115
Industrial Education, The Relation of, to the Laboring People, 276
Industrial Education and Democracy, 451
Industrial insurance, scheme of, in Iowa, 590
Industrial Partnership, A Promising Venture in, 116
Industrial Peace, The Outlook for, 116
Industrial Relations Commission, The Constructive Work Before the, 607
Industrial Safety, Nation Wide Movement for, 451
Industrial Schools, State, tax for, 576; provision for, 578
Industrial Unrest, The Political Factor in the, 448
Industrialism, New, An Ethical Aspect of the, 275
Industries, American, contents of, 114, 274, 448
Industries, Continuous, Rest Periods for the, 273
Industry, influence of captain of, 152, 153; control of, 153
Industry, Private, Government Investigation of, 614
Industry, The Captain of, 116
Inebriates, law relative to, 441
Inebriates, State Hospital for, act relative to, 578
Infantry, United States, First Regiment, company of, in Iowa, 517; buildings of, at Fort Madison, 518; colonel of, 542
Inflation Bill, passage of, 154
Ingraham, Captain, demand of, 513, 514
Ingram, George H., article by, 292, 622
Ingram, John V., compilation by, 271
Inheritance tax, advocate of, 163; reference to, 436; direct, 600
Inheritance tax law, Iowa, 425
Initiative and referendum, 546; provision for, in Iowa, 550
Initiative and Referendum, Federal, 112
Initiative and Referendum, The: State Legislation, 453
Initiative, Referendum and Recall, The Actual Workings of the, 114
Initiative, Referendum, and Recall in San Francisco, The, 607
Initiative, Referendum and the Recall, A Select List of References on the, 272
Injunctions, The Supreme Court and, 114
Injuries, liability for, to workmen, 589
Insane, care of, 577; parole of, 579
Insane, State Hospitals for, tax for, 576
Insane in the United States, Summaries of Laws Relating to the Commitment and Cure of the, 457
Insanity and Criminal Responsibility, 275, 450
Institutions, State, escape from, 595; taxation and appropriations for, 597-599
Insurance, supervision of, in Iowa, 583; extension of, 583, 584
Insurance, Casualty Company, Advantages of, 610
Insurance, Compulsory State, Advantages of, 610
Insurance, Department of, establishment of, 583
Insurance, Social, American Conference on, proceedings of, 610
Insurance Cases, Election in, 116
Insurance Commissioner, creation of office of, 556
Insurance laws, 400
Insurgent Party, rise of, 164; principles of, 165
Intendant, Spanish, duty of, 9
Interest, The Impatience Theory of, 115
Interest, The Marginal Productivity Versus the Impatience Theory of, 605
Internal improvements, Democratic opposition to, 57, 60, 61; advocates of, 62; agitation for, in Indiana, 131; legislation on, 441
International Conciliation, American Association for, pamphlets of, 114, 276, 446, 605
International Disputes, American Society for Judicial Settlement of, paper published by, 112, 446, 603; conference of, 138, 300
International Law, Precedent and Codification in, 603
Internationalism, 276

Interparliamentary Union, The, 446
Interstate Commerce Commission, origin of, 157
Interstate rate cases, prosecution of, 599
Investment Bankers and Their Work, 285
Investment companies, law relative to regulation of, 580
Iowa, Congressional campaign of 1845 in, 41, 57-66; Whig activities in, in 1848, 43-47, 50-55; Democratic activities in, in 1848, 47-50, 55-57; need of internal improvements in, 57; third party movements in, 147; Greenback Party in, 155; Republican victory in, 160; foreigner's visit to, in 1873, 221; meaning of name of, 224; prices of land in, 224; Indians of, 224, 225; prairies of, 225, 227; resources of, 225, 226; settlement of, 227; visit to Hollanders in, 228-235, 243-246; description of northwestern, in 1873, 237, 240; first white settlements in western, 323, 362, 363; incidents in early history of, 323; Indians of, 324, 328, 332, 337; trader's trail in, 325; Indian trade in, 326-329, 330, 344, 361; Lewis and Clark expedition in, 331-333; expeditions along western, 333-335; expedition in, 336; treaty with Indians of, 336, 337; Indian territory established in, 337, 338; cession of, to Pottawattamie Indians, 339, 340; life of Indians in, 341-344; dragoons in, 345, 354, 356, 359, 361; Jesuit missionaries in, 347-355; first white men in northwestern, 361; banking in, 456; Hungarian settlement in, 484, 485; treatment of Hungarians by legislature of, 487; removal of Hungarians from, 488; life of exiles in, 514-516; Granger movement in, 602; first book about, 618; thirty years ago in, 618
Iowa, Territory of, some military history of, 70-72; map of topography of, 75; description of, 75, 77, 78; wild game in, 79, 80; geology in, 80; floods of 1844 in, 81-83; Oregon emigrants from, 84, 359, 360; Sumner's Dragoon Expedition in, 258, 259; forts in, 258; Superintendent of Indian Affairs in, 265; flight of Mormons across, 361; reference to, 445
Iowa-Missouri Boundary, decision by Supreme Court on, 323, 363
Iowa, Early, Prominent Men of, 132, 465
Iowa, Greater, Factors in the Development of a, 286, 455
Iowa, History and Government of, 458
Iowa: Its Constitution and Laws, 124
Iowa Alumnus, The, contents of, 121, 284, 456
Iowa and the Nation, 123
Iowa Applied History Series, first volume of, 136
Iowa authors, some recent publications by, 122, 287, 457, 615
Iowa Biographical Series, 135, 299
Iowa City, Whig convention at, 46; need of railroad at, 64; Oregon emigration by way of, 359; weight and measure standards removed from, 585
Iowa County, Free Soilers in, 67
Iowa Country, Western, Episodes in the Early History of the, by JACOB VAN DER ZEE, 323
Iowa Democratic Enquirer, review of Whig Party in, 62
Iowa Economic Series, 135, 137
Iowa Engineer, The, contents of, 120
Iowa Factories, contents of, 120, 455
Iowa History, episode in, 543; Lecturer in, 628
Iowa Indians, 224; names given to, 324, 325, 326, 328; villages of, 324, 325, 331, 335, 338; trade with, 326, 328, 329, 518; wanderings of, 326, 328; French killed by, 326, 328; British relations with, 328, 329, 335; character of, 332, 335; council with, 335; treaty with, 337; party of, 341; Kansas village of, 346; comparison between Pottawattamie Indians and, 347; Sac influence on, 521
Iowa Lake, 90
Iowa-Land, Earliest Explorations of, 132
Iowa Library Association, meeting of, 138
Iowa Library Quarterly, contents of, 615
Iowa Reports, citations from, 424, 429
Iowa River, waterpower along, 290
Iowa Staats-Anzeiger, editor of, 139
Iowa Standard, The, advice of, 39; Whig opinions of, 46, 50, 55
Iowa State College, Glimpses of the Past at, 456
Iowa State Colleges are Getting Together, How the, 278
Iowa State Register, The, comment of, on code, 396, 397, 398; declaration of, 401; attack of, on State printing, 413, 414
Iowa Wesleyan University, 619
Iowana, 120, 284, 455, 614
Iowans, news events of, 125
Ireland, Archbishop, address by, 279
Ireland, Home Rule in, 115
Irish, John P., 197; legislature championed by, 201; reports of, 206, 207
Irish, Indian descendants of, 263
Iron Banks, expedition to, 75, 77, 80; rising of river at, 82; description of, 87
Iron Hand, The Man with the, 601, 617, 629
Iron mine, grant of, 16

Iroquois Pottery and Wampum, 130
Irwin, Richard, appointment of, 44
Italian Districts, Two, 274
Italy, uprising in, 490
Itasca, Lake, discovery of, 70

Jack-Knife Man, The, 616
Jackson, Andrew, appointments by, 31; policy of, as to internal improvements, 61; interests represented by, 150; accession of, to power, 151; cause of success of, 321; democracy of, 322; Indian appeals to, 341
Jackson County, 526
Jackson County (Minnesota), dragoons in, 91
Jacobite Papers at Avignon, 112
Jacobstein, Meyer, article by, 283, 609
James, Edmund J., article by, 132; reference to, 631
James, Edwin, account of expedition by, 335; Indian agency of, 342; influence of, over Indians, 343; later life of, 344
James, Eldon R., article by, 450
James, James A., article by, 296; paper by, 468; election of, 468; book edited by, 601, 602
James, T. L., 298
James VI, The Scottish Progress of, 112
James River, Indians on, 333, 337
James Sprunt Historical Collections, The, contents of, 128
Jamison, James H., bill of, 366, 367
Janesville (Iowa), monument at, 471
Japan, Early Mexican and California Relations with, 130
Japan, Political Parties in, 114
Jasper County, Whigs in, 67
Jefferson, Thomas, board appointed by, 18; party headed by, 148, 149; political opinions of, 149; features of administration of, 149, 150; policy of, 150; democracy of, 322; Shahaka's visit to, 527; agreement of, 602; documents relating to, 627
Jefferson, town of, 107
Jefferson Barracks, dragoons at, 70, 260
Jefferson County, Whigs of, 44; Free Soilers in, 67
Jefferson County, Old Landmarks of, 465
Jefferson County Historical Society, meeting of, 298
Jefferson Memorial Building, 627
Jefferson's Plan for the Development of American Agriculture, 279
Jennings, W. E., appointment of, 51
Jepson, C. N., 437
Jepson, William, article by, 121
Jesuitry and Masonry, 121
Jesuits, mission of, in western Iowa, 346
Jesus, A Layman's Life of, 123
Jewish Year Book, The American, reprint from, 111
Jews, The Agricultural Activities of the, in America, 111
Jews in Various Countries, List of Works Relating to the History and Condition of the, 606
Johns Hopkins University Studies in Historical and Political Science, contents of, 111, 447, 605
Johnson, Allen, book compiled by, 271
Johnson, Alvin S., address by, 275
Johnson, Andrew, frustration of attempt to impeach, 126; impeachment of, 445
Johnson, C. T., article by, 623
Johnson, Francis M., sketch of life of, 618
Johnson, John W., site of Fort Madison selected by, 517; trading post managed by, 517, 518; later years of, 518; blacksmith under, 519; settlement of Indians with, 522; Hunt sent out by, for Indian trade, 525, 526; Hunt's furs delivered to, 534; Hunt's return to, 538; gift of, to Indian, 539; letter of, to Howard, 542, 543
Johnson, L. E., article by, 608
Johnson, Thomas H., article by, 130
Johnson County, Democrats in, 67
Johnston, James William, 294
Johnston, Joseph E., class of, 68
Jonah, 148
Jones, Eliot, article by, 605
Jones, F. F., article by, 286
Jones, George W., Dodge's complaint to, 342
Jones, J. M., 629
Jones, Leo, article by, 293
Jones, Louis T., research work of, 470; volume by, 628
Jones, Mr., dragoons guided by, 89, 90; antelope killed by, 99
Jones, R., report of, 74
Jones, William A., article by, 280
Jones, William C., article by, 453
Jones County, Whigs in, 67
Jordan, John W., article by, 133, 625
Joscelyn-Joslin Family, The, 278
Joy riding, punishment of, 594
Judge, county, powers of, 168; change of system of government by, 168, 169
Judges, election of, 151; changes in code proposed by, 212; recall of, 282; convention of, in 1887, 426; tax rules for, 436; suspension of execution of sentence by, 553; nomination and election of, 553, 554; new duty of, 554; decision of, 597
Judicial decisions, history of, in Iowa, 427
Judicial Department, code sections on, 186

Judicial districts, new provision relative to, 554, 555
Judicial Opinions, Report of the Committee on, 456
Judicial procedure, 600
Judicial review of administrative decisions, 630
Judiciary, State, changes in, 553-555
Julian, Mr., burning of houses of, 545
Julien, Mr., trading operations of, 329, 330
Junkin, Joseph M., appointment of, 388, 389; reference to, 419
Juries, Sheriffs, 597
Jury, instructions to, 554
Justice, Daniel, 459
Justice, administration of, 8
Justice, Chief, powers of, in Iowa, 553; duty of, 597
Justice of Peace, court of, 562
Justinian, code of, 170
Juvenile Delinquents, Mental Types of, 450

Kalamazoo River, fur trade on, 313
Kalaw, Maximo M., article by, 280
Kanesville, last vestige of, 289; reference to, 345
Kansas, removal of Indians to, 71; Greenback Party in, 155; farmers in, 158; Republican victory in, 161; character of troops of, 253; government of State educational institutions of, 283; Ioway Indians in, 346; Jesuits in, 355; paleoliths of, 625
Kansas, Early Days in, 454
Kansas, Railroads in, 110
Kansas, Some of the Lost Towns of, 110
Kansas, The First Capitol of, 110
Kansas, University of, State service work of, 118; description and history of, 283
Kansas, University of, The Graduate Magazine of the, contents of, 118, 283, 453
Kansas is Doing for her Municipalities, What, 286
Kansas-Nebraska Act, Genesis of the, 466
Kansas Historical Society, Collections of the, 1911- 1912, contents of, 110
Kansas Indians, trade with, 326
Kansas Reservation, In Keokuk's Time on, 613
Kansas River, Indian land on, 362
Kansas School Fund, A History of the, 110
Kansas University Finances, Early, 453
Kansas Valley, tribes of, 625
Kappler's *Laws and Treaties Relating to Indian Affairs,* third volume of, 271
Kaskaskia, capture of, 602
Kasson, John A., leadership of, 172, 206; appointment of, 190; reference to, 197; resolution of, 204
Kato Language, Elements of the, 119
Keables, Henry S., 136
Kearny, Stephen W., march of troops under, 72; name of, 81; report to, 83; expedition by, across Iowa in 1820, 132, 259, 336; reference to, 342; fort established in western Iowa by, 345, 346; present of, to Jesuit missionaries, 348; presence of, in western Iowa, 354
Keedy, Edwin R., article by, 275, 450
Keel-boat, travel by, 330, 333, 334, 338
Keeler, Lucy E., article by, 130
Keffer, William B., 469
Kegley, Howard C., article by, 125
Keith, Theodora, article by, 448, 606
Kellogg, Laura C., article by, 612
Kellogg, Louise P., book edited by, 269; article by, 466
Kemmerer, E. W., article by, 115, 451
Kemmis, A. C., article by, 284
Kendel, Julia, article by, 623
Kenny, James, Journal of, 1761-1763, 625
Kent, John E., 473
Kent County and Kent Island, 1656-1662, 462
Kentucky, emigrants from, 25, 316; victory of Bryan in, 161; natives of, in Iowa, 319
Kentucky, A Land of Heroism, 291
Kentucky, Birthplace of Civilization in, 278
Kentucky, The Church in, 128
Kentucky, The Citizen King in, 450
Kentucky State Historical Society, book issued by, 461; meeting of, 466
Kentucky State Historical Society, The Register of the, contents of, 291, 463
Kentucky Volunteers in the Texas Revolution, 463
Kenyon, P. C., report of, 430
Kenyon, William S., address by, 300, 455
Keokuk, desire for railroad at, 55, 56, 59, 64; historic sites submerged by dam at, 126, 132; statue at, 139; water power at, 284; meeting at, 628
Keokuk, chief, statue of, 139; reference to, 613
Keokuk Dam, Interesting Details About the, 455
Keokuk Dispatch, Democratic observations of, 55; Congressmen justified by, 59, 60; editorial in, 64
Keokuk Medical College, graduate of, 249
Keokuk Register, Whig observations of, 46, 57, 58, 64
Keokuk Water Power Legislation and Construction, review of, 619
Keokuk's Time on the Kansas Reservation, In, 454
Keosauqua, early settlers of, 300

Key, David M., article by, 604
Keyes, Charles R., article by, 132, 297
Keyes, Franklin C., article by, 277
Kickapoo Indians, trade with, 312
Kieron, Francis, article by, 450, 610
Kilkenny (Ireland), 181
King, Irving, book by, 457
King, Matthew P., story told by, 618
Kingsley, Alpha, military career of, 517; site of Fort Madison selected by, 517; request of Indians from, 522; danger of, 524; report made to, 524
Kinley, David, article by, 451
Kinnaman, J. O., article by, 119, 295
Kinne, L. G., appointment of, 370
Kirby, John J., article by, 114, 274, 448
Kirkwood, Samuel J., student volunteers accepted by, 472
Kitson, Mr., trading-post of, 265
Kittaning, frontier post of, 270
Klingaman, Orie E., appointment of, 631
Knapp, Joseph C., life of, 132
Knight, W. J., 176; appointment of, 177, 196; sketch of, 180, 181; resolution of, 214
Knives, Big, 519; war against, 532
Knoepfler, Karl J., research work of, 470
Knoll, Frederick M., bill of, 214
Knox, Philander C., address by, 293
Koch, Felix J., article by, 283, 453, 466
Kolozsvár, University of, 489
Komorn, Governor of, 482
Kompolti, Mr., ability of, 504
Korab, Paul A., 469
Koren, John, book by, 457
Kossuth, escape of, 479; republic advocated by, 481; arrest of, 481; release of, 482; government of, 482; letter of credentials written by, 482, 483; letter of, to Lewis Cass, 484; news from, 486; admirer of, 490; ministry of, 491; flight of, 491; election of, as Governor, 492, 493; periodical of, 505, 506; Iowa exiles in support of, 515
Kossuth County, question of division of, 290, 559
Kossuth Platz, 503
Koszta, Martin, capture of, at Smyrna, 513; release of, 514
Kratz, George D., letters of, 130
Kreigh, Luther, railroads built by, 289
Kristinaux Indians, half-breeds of, 263
Kroeber, Henriette R., article by, 128
Krone, Charles A., article by, 132, 622
Kutayah (Asia Minor), 484
Kyle, John W., article by, 623

Labor, difficulty of securing farm, 232; competition with free, 285
Labor, Commissioner of, law relative to office of, 590, 591
Labor Conditions and Interstate Commerce, 451
Labor disputes, settlement of, in Iowa, 590
Labor legislation, recent, in Iowa, 588-591
Labor Legislation, American Association for, meeting of, 139, 273
Labor Legislation, New York's New, 451
Labor Legislation for the Past Year Reported by State Federation, 607
Labor Legislation Review, American, contents of, 273, 610
Labor Movement, Ethics of the, 607
Labor Organization, American the Dominance of the National Union in, 447
Labor Organizations, Two Forgotten Decades in the History of, 447
Labor Reform Party, platform of, 154
Labor Statistics, Bureau of, report of accidents to, 591
Labor's Representative Character, Organized, 447
Labor's Struggle, A Tale of, and its Conflict with Industrial and Political Corruption, 606
Lacey, John F., address by, 122; sketch of life of, 619, 631; death of, 628
Laclede, Pierre, 328
La Crosse and Monroe County Notes, 295
Lac-qui-Parle, Sioux Indians at, 260, 261
Lacy, B. W., fountain in memory of, 300
Ladd, Jerry, The Legend of, 287
Lading Act, Uniform Bills of, 442
Lady and the Pirate, The, 616
Lafayette, General, 358
Lafayette County, Reconstruction in, 623
LaFollette, Robert M., rise and policies of, 164, 165
La Framboise, Claude, 352
La Framboise, John, 352
Lagotery, Victor, 543
Laidley, W. S., article by, 463
Lajos, Kossuth, letter of, 482
Lake Erie, The Battle of, 110
Lake Huron, fur trade on, 311
Lake Michigan, fur traders on, 312
Lake Mohonk Conference of Friends of the Indian and Other Dependent Peoples, Report of the Thirtieth Annual, contents of, 280
Lake Mohonk Conference on International Arbitration, Report of the Nineteenth Annual, contents of, 610
Lake of the Oaks, expedition to, 75; description of, 76, 97; timber at, 77
Lake Peoria, fur trade near, 312
Lake Pepin, 336
Lakes, country of, in northern Iowa, 77

Lakes, Great, fur trade on, 311
Lallon, William J., article by, 292
Lambert, B. J., 469
Lamson, R. W., 298
Lancaster, R. A., 468
Land, Indian cessions of, 258; first sales of, in Iowa, 319; purchasers of, 319, 320
Land Commissioners, boards of, reports of, 15 (See Commissioners, Land)
Land grants, Spanish, in Louisiana, 3, 6; policy concerning, 3-15; O'Reilly's regulations of, 4-6; de Lemos' regulations of, 7, 8; Morales' regulations of, 9, 10; steps necessary to secure, 10, 11, 12; reasons for, 12, 13, 14; nature of, 13; ascertainment and adjustment of, in Upper Louisiana, 15-37; acts of Congress relative to, 17, 18, 19; frauds of, 20, 21; official report on, to Congress, 21; classification of, 22, 23; adjustment of claims based on, in Missouri, 29-37; last chapter in history of, 32, 33, 36, 37; railway, 224
Land Grants of Upper Louisiana, The Spanish, by LOUIS PELZER, 3
Land marks, Iowa, 289
Land Office, General, Commissioner of, 28; report on land claims to, 36, 37
Land offices, Louisiana and Florida, 36
Land Titles, Recorder of, report of, 26, 27; powers and duties of, 28, 31
Land titles, Torrens system of, 374
Landrum, Charles H., paper by, 110
Lands, public, distribution of proceeds of, 62, 65; reclamation of, 158
Landsberg, Helene, 469
Lane, E. C., 217
Lanercost, Chronicle of, Authorship of the, 274
Langan, R. C., 437
Lange, Christian L., article by, 446
Laning, Aaron S., article by, 127
Lapp, John A., article by, 611
Laprade, William T., article by, 112, 115, 296
Larrabee, William, birth and education of, 140; political life of, 140; place of, in Iowa, 141; leadership of, 172; motion of, 174, 196; appointment of, 190; reference to, 197; first message of, 211, 212; memorial exercises for, 300
Larrabee, William, 455
Larrabee County, proposed, 559
Larremore, Wilbur, article by, 116
La Salle, explorations of, 601
Lathrop, Julia C., article by, 115
Latimer, Robert Z., 473
Latter Day Saints, Reorganized Church of Jesus Christ of, publication of, 120, 286, 456, 615
Laughlin, J. Lawrence, article by, 608
Lavinia, town of, 107
Law, William J., certificate of, 255
Law, public, 187
Law, College of, The Spirit of the, 122
Law, Iowa, Encyclopaedia of, editor of, 422
Law, Iowa College of, 180
Law, The Game of, 117
Law and Liberty, 115
Law and Liberty vs. Lawlessness, 274
Law-Breakers, No Immunity for, 448
Law Examiners, Board of, rules of, 440
Law School, State University of Iowa, Chancellor of, 372
Law School, The Genesis of a, 453
Lawless Leadership and Treason, 274
Lawlessness, prevalence of, 19
Lawmakers' Association, Pioneer, meeting of, 300
Law-Making in Many States, Progressive, 608
Lawrence, Geo. A., article by, 623
Lawrence, Judge, defeat of, 156
Lawrey, James, article by, 455
Laws, Iowa, confusion of, in 1869, 167-169; provision for revision and codification of, 169; suggestions for revision of, 170-172; creation of commission to revise, 173-178; codification of, 185, 186; condition of, after 1873, 211, 212; need of revision of, 214, 216; requisites for enforcement of, 320, 321; condition of, in 1894, 364; passage of, by Thirty-fifth General Assembly, 548; compilation of, 549
Lawyers, code commission of, 171; code desired by, 188; value of codes to, 411, 426, 427; request of, as to code citations, 429; law relative to practice of, 593
Lay, George C., article by, 450
Lea, Albert M., visit of, to Bellevue, 341
Lead, mining and smelting of, 24
Lead mines, grant of, 16; Indians engaged in, 525, 526; Hunt's trade at, 526, 527; coming of Winnebago Indians to, 527, 528; Hunt attacked at, 529, 530; Hunt's escape from, 531-533, 542; buildings burned at, 534, 540; Hunt's flight from, to Fort Madison, 534-538; Pryor's escape from, 540, 541; attack on Americans at, 543
Leaders, nature of, 320
Lear, A Modern, 117
Learned, Marion D., article by, 463
Leavitt, Frank M., article by, 115
Leavitt, Roger, gift of, 139

Le Baron, J. Francis, article by, 127
Lederer, John, discoveries of, 268
Lee, General, in Grant's Petersburg Progress, 451
Lee, John T., article by, 466
Lee, R. B., mistake of, 260
Lee, Robert E., class of, 68
Lee, Robert E., The Strategy of, 277
Lee County, Whigs of, 44, 45; Free Soilers in, 67
Leech, James H., appointment of, 52
Leffingwell, William E., 176
Leffler, Isaac, call signed by, 50; appointment of, 51; votes for, 52
Leffler, Shepherd, nomination of, for Congress, 55; congressional career of, 55, 56; charge against, 56, 58; justification of, 59, 60; votes for, 67
Legal Inquiry, Commission of, 174; report of, 175
Legislation, uniform, convention for, 215, history of, in Iowa, 427; courts and, 449; local, 546; discussion of, of Thirty-fifth General Assembly, 548, 549
Legislation, Courts and, 611
Legislation, Current, Notes on, 115, 611
Legislation, Remedial and Preventive, in the United States, Some Implications of, 450
Legislation as a Social Function, 450
Legislative reference, bureaus of, 546; training for, 631
Legislative Reference, 611
Legislators, qualifications of, 547; pay of, in Iowa, 547, 556; tax views of, 595; problems of, 596
Legislature, The Iowa, 456
Legislatures, corruption in, 152; newspaper view of, 546; need of reform of, 546, 547
Legislatures, State, The Distrust of, 546
Leinard, J. W., 298
Leitner, Mrs. Ethel H., article by, 129
Leland, Waldo G., report by, 127; paper by, 131
LeMars, foreigner's visit to, 241, 246
Lennon, John B., article by, 607
Leon, Hungarian family at, 499; Varga's life at, 501
Le Sueur, 269; report of Indians by, 324
Letty's Sister, 123
Le Vasseur, Mr., Indian removal in charge of, 342
Levee improvement commissions, 564
Leviathan, fear of, 148
Levin, Samuel M., article by, 448
Lewis, E. I., article by, 286
Lewis, Leroy, 473
Lewis, William D., article by, 609
Lewis, town of, 348
Lewis and Clark, camps of, in western Iowa, 330-333; reports of, on Indian tribes, 332; sergeant under, 526, 527
Lexington, The Capture of, 128
Lexington of the Seas, The, 118
Libby, Orin G., article by, 284, 613
Liberty, Law and, 115
Librarian of Congress, Report of the, contents of, 273
Libraries, tax for building of, 202; laws relative to, 565, 566
Library, Public, Relation of the, to Social Betterment, 615
Library, State, improvement of, 202
Library, Territorial and State, Pioneer History of the, 461
Library, The Iowa State, With Special Reference to the Law Department, 121
Library Administration and Public Service, 631
Library in its Relation to Education and Social Service, The, 611
Library Legislation of Thirty-fifth General Assembly, 615
Library of Iowa, Territorial and State, Pioneer History of the, 297, 465
Lien, vendor's, 186
Lieutenant Governor, counting of votes for, 553
Life, The Quest of, 616
Life Insurance Companies, investment of funds of, 584
Lima, Manoel de O., paper by, 605
Limestone, bed of, 80
Lincoln, Abraham, influence of, 162; book on, 271; reference to, 309, 617; republicanism of, 322; poetical interpretation of, 446
Lincoln, President, Supposed Diary of, 612
Lincoln and German Patriotism, 626
Lincoln (Nebraska), 301; pageant at, 471
Lincoln, The Old City of, 294
Lindley, Harlow, paper by, 110, 613
Lindsay, Samuel M., article by, 451, 609
Lindsey, A Judge in the "Idle Forties", 451
Lines, A Journey Through the, 132
Linn, Lewis F., appointment and services of, 31, 32
Linn County, Whigs in, 67
Lipsky, Abram, article by, 452
Liquor, sale of, to Indians, 258, 265, 351, 352, 356, 357; use of, by Pottawattomie Indians, 349, 351, 352, 355
Liquor laws, County Attorney and, 558
Liquor legislation, recent, in Iowa, 575
Liquor license, grant of, 186
Lisa, Manuel, trading operations of, 333, 334; letter of, 624

Lisa, Manuel, New Light on, and the Spanish Fur Trade, 624
Lisle, John, article by, 450
Literary Societies of the Seventies, The, 456
Literature, The Evolution of, 127
Litigation, reduction of, 379, 407
Little Bird, 526
Little Brown Church in the Vale, 459
Little Platte River (Missouri), country of, 340; removal of Indians from, 342
Little Prairie, village of, 23, 26
Little Rock (Arkansas), 511
Little Sioux River, crossing of, 76; description of, 79; Indian hunts along, 79; dragoons on, 105; reference to, 240, 325, 332, 340; expedition along, 336
Livestock, law relative to, 586
Living, A Remedy for the Rising Cost of, 451
Living, Cost of, Intensive Farming Reduces the, 455
Living, The Cost of, 609
Living, The High Cost of, 608
Livingston, William, article by, 121
Livingston County, Sketches of, 128
Lizard Creek, 79; crossing of, 85; description of, 86
Lloyd, Alfred H., article by, 609
Loan sharks bill, 600
Local government, taxation by, 599
Lochner, Louis P., article by, 114; paper by, 604
Locofocoism, meaning of, 54
Locomotive Engineers' Arbitration, The, 275
Locomotives, railroad, act relative to, 572
Lodge History, The Writing of, 121, 284
Lodging-houses, law relative to, 574
Log "castle", building of, 485; occupant of, 502
Log houses, 227
Logan Elm, The, 294
Logan Elm, Dedication of the, 466
Logan's, William, Journal of a Journey to Georgia, 132
Lohr, Otto, article by, 626
Lomax, John A., article by, 462
London, meeting of Congress at, 140; stock exchange of, 276; Hungarian exiles at, 480, 494, 499
Long, Stephen H., expedition of, 335, 343
Lookout Mountain, memento of, 460
Loomis, Nelson H., article by, 468
Looscan, Adele B., article by, 295; reference to, 467
Lord's Supper, Indian participation in, 353
Lorimer, Louis, claim of, 25
Los Angeles, The Civic Association as a Factor of Greater, 130
Los Angeles, The Gold Placers of, 130
Lothrop, J. S., appointment of, 389
Louisa County, Free Soilers in, 67; Whigs in, 67; early history of, 109; mounds in, 459
Louisa County, Iowa, History of, from Its Earliest Settlement to 1912, 109, 124
Louisiana, District of, creation of, 15
Louisiana, State of, adjustment of land titles in, 28, 29; private land claims in, 36; land offices in, 36; admission of, to Union, 293; county government in, 452
Louisiana, Territory of, land grants investigated in, 21; land claims in, 23; winning of, for United States, 321
Louisiana, Economic Factors in the Acquisition of, 468
Louisiana, Upper, Spanish land grants in, 3, 6; O'Reilly's land regulations in, 4-6; French land grants in, 6; immigration to, 7; de Lemos' regulations in, 7, 8; Morales' regulations in, 9, 10; steps necessary to secure land grants in, 10, 11, 12; officers of government of, 10; land grants in, 11, 33, 34, 35; promotion of immigration to, 12, 13, 14; reasons for land grants in, 12, 13, 14; early land titles in, 14, 15; ascertainment and adjustment of Spanish land claims in, 15-37; growth of population in, 15; increase of land values in, 15; result of cession of, to United States, 16; Congressional acts concerning land grants in, 17, 18, 19; land frauds in, 20, 21; dominant nation in, 24; Americanization of, 24, 25; French and Spanish settlers of, 135; French grip on Indians of, 326, 327; cession of, to Spain, 327; British aggression in, 327, 328, 329
Louisiana, Upper, The Spanish Land Grants of, by LOUIS PELZER, 3
Louisiana Historical Society, Publications of the, contents of, 293
Louisiana Purchase, land claims in, 3; date of, 7; reason for opposition to, 149; reference to, 445
Louisiana Purchase Exposition, Iowa Commission of, president of, 141
Louisiana State Museum, Third Biennial Report of the Board of Curators of the, contents of, 118
Louisiana-Texas Frontier, 624
Louisville (Kentucky), 511
Lounsbury, Thomas R., article by, 449
Lovejoy, Owen, correspondence with, 496, 515
Low, A. Maurice, article by, 113, 272
Low, Seth, article by, 116
Lowe, May, article by, 466

Lowell, A. Lawrence, article by, 281
Lowie, Robert H., article by, 283; monograph by, 453, 613
Lowrie, S. Gale, paper by, 281; article by, 607, 611
Lowry, J. J., 384
Lowry, Woodbury, collection of, 279
Lucas, John B. C., appointment and services of, 18-25
Luce, John B., 359
Luecke, C. H., 469
Lundy, Benjamin, Pioneer of Freedom, 623
Lunt, W. E., article by, 131
Lynch, Peter, article by, 294
Lynching, cases of, in Iowa, 167
Lynching Record, Our Country's, 279
Lyon County, dragoons in, 101; Indian lands in, 338; Allen's dragoons in, 360
Lyons Pioneer Germans Society, 284

Macbride, Thomas H., address by, 284; book by, 288
McCabe, W. G., 468
McCallen, William J., article by, 464
McCarty, Daniel, sketch of life of, 459
MacChesney, Nathan W., article by, 113
McClain, Emlin, annotated code of, 212, 213, 220, 429; compilation by, 215; appointment of, as code commissioner, 370; sketch of life of, 372, 373; code annotations prepared by, 406, 422, 440; offer of, 412, 415; contract of, 416, 428, 429; suit against, 428, 429; annotations purchased from, 435
McClain's Annotated Code, 377, 424
McClain's Code, 372; publishers of, 412; cost of, 429
McClintock, J. T., article by, 121
McClure, Mrs. Ellen, 472
McConlogue, J. H., article by, 617
McCormac, E. I., article by, 453
McCown, A. B., book by, 124
McDaniel, Mrs. Clara L., book by, 124
Macdonald, James S., article by, 294
McDonald, Thomas H., article by, 121
McFarland, C. J., 289
McFarlane, Dugald, 295
Macgahan, Januarius A., 131
McGee, W J, book by, 457
M'Grane, Reginald C., article by, 466; reference to, 622
McGrath, P. T., article by, 278
McHarry, Jessie, article by, 463
McIlvaine, Caroline M., book edited by, 310
McIlwaine, H. R., article by, 113
McIntire, W. A., appointment of, 431
Mackay, Don Santiago, 13
Mackay, James, land grant to, 12; land claim of, 22, 25
McKean, John, 173
McKean, Major, candidacy of, 52
McKee, S. A., life of, 618
Mackinac, fur trade at, 311, 312, 313; goods for Indian trade at, 526, 527
Mackinac, The Capture of, in 1812, 466
McLaughlin, Andrew C., address by, 133; leave of absence of, 138; article by, 607
McLaughlin, Robert W., book by, 271
Maclean, Elizabeth, article by, 456
McLean, George, 299
MacLean, George E., book by, 457
McLean, J. W., 298
Maclean, Paul, book by, 288
McLeod, R. R., article by, 294
M'Nabb, Mr., house of, 545
McNee, Peter, 472
McNutt, Samuel, resolution of, 192, 194
Macomb, General, order of, 69
Macon, Nathaniel, 465
Macphail, J. R. N., article by, 274
McPherson, M. L., sketch of life of, 298
McPherson, M. L., 285
McPherson, Smith, biography written by, 285; paper by, 298
McRae, M. John, 543
Macy, Jesse, address by, 121; article by, 278, 449, 608; letter of, 285; book by, 458
Madarász, Joseph, prominence of, 490; visit of, to America, 495
Madarász, Ladislaus, fame of, 489, 490; early life of, 490, 496; radical views of, 490, 491, 492; resolution of, 492; Chase's correspondence with, 492, 496, 515; flight of, 493, 494, 499; confiscation of property of, 494; life of, at New Buda, 494, 495; visit of brother to, 495; linguistic ability of, 495; family of, 495, 496; death of, 496
Madarász, Lajos, 496
Madarász, Mrs. Lajos, 480, 483, 484, 486, 487
Madarász, Vilmos, wife of, 489; flight of, 494; marriage of, 495
Madison County (Illinois), pioneer of, 316; early immigrants of, 318
Madison County Historical Society, 285; meeting of, 298
Magazine Subject-Index, Annual, contents of, 604
Magyars, descendants of, in America, 481; settlement of, in Iowa, 485; appearance of, 502
Mahaska, Chief, tribe of, 224; talk with, 346
Mahaska County, Whigs of, 44, 45, 67; movement for historical society in, 133
Mahommet, 498

Maid of the Forest, The, 617
Mail car, railway, trip of, 618
Mail facilities, advocate of, in Iowa, 64
Majthényi, Baron, 494
Majthényi, Elizabeth, death of, 494
Majthényi, Theodore, career of, 494
Malden, visit of Winnebagoes to, 527; English at, 532
Malicious mischief, 594
Maliseet Tales, 624
Malotte, Mrs. Emaline, 135
Man Eater, 527
Man with the Iron Hand, The, 601
Manatt, J. Irving, article by, 278
Manchester, march of student volunteers to, 472
Mandan Indians, 264, 613; chief of, 526
Manitowoc and Two Rivers, The Joint State Assembly at, 295
Mann, Horace, Iowa a Debtor to, 628
Mann, Moses W., article by, 127
Manual training, teaching of, 591
Manufacturers, supporters of, 62
Manufacturers' Association, Iowa State, convention of, 630
Manufactures, law relating to, 394
Map of Iowa in 1850, 290
Maple River, 106
Maps, collection of, relating to Spanish possessions in United States, 279, 280
Marias des Liards, village of, 23
Marcella's, Anna, Book of Verses, 287
Marcy, William L., papers transmitted by, 68, 74
Mardis, Capitola, work of, 422
Marginal Utility and Marginal Disutility as Ultimate Standards of Value, 605
Marietta, Ohio Company of, 13
Marin, 327
Marion County, pioneer of, 619
Market places, 563
Markets, distance of, from farmers, 156
Marki, Dr. Alexander, 481; statement of, 489
Marmaduke, John S., capture of, 250-252, 255, 256; request of, 252; delivery of, to General Curtis, 253
Marmaduke, General, The Capture of, by James Dunlavy, by THOMAS JULIAN BRYANT, 248
Marquette and Joliet, coming of, to Iowa country, 109, 601
Marriage, annulment of, 594; report of, 594
Marriage and divorce legislation, history of, 470
Marsh, Benjamin C., article by, 449
Marsh, Frank B., article by, 282
Marshall, C. G., 469
Marshall, John, decision of, 33; opinion of, 35
Marshall County Historical Society, meetings of, 134, 298, 627
Marston, A., article by, 120
Martin, Ephraim, Some Additional Information Concerning, 132
Martin, F. H., appointment and services of, 31, 32
Martin, George W., book edited by, 110; paper by, 110
Martzolff, Clement L., article by, 296
Maryland, natives of, in Iowa, 319; Jesuits in, 347
Maryland, Archives of, 294
Maryland, Council of, Proceedings of the, 294
Maryland, The Land System in, 1720-1765, 447
Maryland Historical Magazine, contents of, 293, 462, 624
Maryland Historical Society, publication of, 294; meeting of, 298, 467
Mason, Charles, class of, 68
Mason, Daniel G., article by, 446
Mason, General, 543
Mason, George, letter to, 602
Mason, Mrs. John, 472
Mason, J. Alden, article by, 119, 129
Masonic Revival of 1717, Historical Background of the, 121
Masonry, Royal Arch, 284
Massachusetts, contest over formation of constitution for, 147; constitutional history of, 148; natives of, in Iowa, 319
Massachusetts, Notes on the Almanacs of, 127
Massachusetts Historical Society, Proceedings of the, contents of, 291
Massachusetts History, The Tabular Standard in, 447
Massic, Major Thomas, Pension Declaration of, 464
Mathews, John P., 472
Mathews, Lois Kimball, paper by, 134
Mathews, Shailer, article by, 115
Matthews, Lillian R., article by, 452
Maurice, Alexis, petition of, 10
Maury, Matthew F., letters and medals of, 273
Maximilian, Prince of Wied, visit of, to Lloyd's grave, 339
Maxwell, George M., resolution of, 195
Maxwell, John S., article by, 447
Maxwell, William H., address by, 611
May, George, 47, 48
Mayer, J. W., article by, 456
Mayflower Compact and its Descendants, The, 134

Maylan, Col. Stephen, Selections from the Correspondence of, 625
Mayne, Samuel, 404; bill of, 412
Mayor, salary of, 560; court of, 562; power of appointment by, 566, 584
Mazelli, Brother, 346, 347
Mead, Edwin D., article by, 448
Meany, Edmond S., article by, 623
Meat Bill, Pure, passage of, 163
Mechanics liens, 590
Mechling, W. H., article by, 624
Mecklenburg Declaration of Independence, The, 450
Medford, Distinguished Guests and Residents of, 291
Medford Historical Register, The, contents of, 127, 291, 461, 620
Medford's Postmasters, 461
Medical Examiners, State Board of, duty of, 593, 594
Medical Progress, Iowa's, 121
Medicine Then and Now, 121
Medieval History, Profitable Fields of Investigation in, 465
Medium Lake, dragoons at, 88
Meehan, Thomas F., article by, 295
Memling, Dirk, The Amiable Crimes of, 288
Memorial Day Annual, 1912, contents of, 114
Men, Loose and Broken, 274
Men, plain, conquest of West by, 318, 321; States built by, 319; contributions by, 322
Men, Plain, History Made by, by LOUIS PELZER, 307
Men, Prominent, of Early Iowa, 297
Mennonites, difficulties of, 133
Menominee Indians, 327
Menominee Indians, European Folk-Tales Collected Among the, 462
Menzerath, Paul, article by, 450
Mercantilism and Rome's Foreign Policy, 296
Merchant, Transient, and Peddler's Licenses, 122
Merchants, transient, licensing of, 584, 585
Meredith, Joseph, Reminiscences of, 456
Meritt, Edgar B., article by, 280
Merk, Frederick, 621
Merriam, Charles E., article by, 449
Merriam, F. F., motion of, 384; resolution of, 402
Merrill, Rev. Moses, mission of, 341; entries in diary of, 341, 342, 350; influence of, over Indians, 343; de Smet's account of, 347
Merrill, Samuel, article by, 128
Merrill, Samuel, message of, to General Assembly, 167, 172, 188, 189; appointments by, 179; report of code commissioners to, 181
Merrimac, sinking of, 248
Mervine, William M., article by, 133
Meskwaki Indians, investigation of, 136
Metcalf, Arthur, 628
Methodist Episcopal Church, South, in Kansas, The, 110
Methodist Episcopal Church and the Civil War, The, 271
Metis, Red River, description of, 263; Sumner's report on, 263-265
Mexican Diplomacy on the Eve of War with the United States, 296
Mexican Folk-Lore, Notes on, 129
Mexican Spanish Fairy-Tales, Four, 129
Mexican War, effects of, on Congress, 59; conduct of, 65
Mexican War, The San Patricio Battalion in the, 605
Mexico, land claims in territory acquired from, 3; treaty with, in 1848, 41; Whig view of war with, 45, 59; absorption of, 62; war with, 72; Texas documents in, 138; trip to, in 1846, 270
Mexico, Discovery of Historic Manuscript of, 113
Mexico, Gulf of, 223
Mexico, Notes on the Intervention in, 1861-1867, 605
Mexico, The University of, 127
Meyerholz, Charles H., book by, 458; return of, 630
Michelson, Truman, visit of, to Iowa City, 136; article by, 614
Michigan, Greenback Party in, 155; Hollanders of, 221; life of Hollanders in, 234; fur trade in, 313; Vermonters in, 319; State printing in, 414
Michigan, Pioneer and Historical Society of, acknowledgements to, 517
Michigan, Territory of, statutes of, 212; western part of, 340
Michigan, University of, Historical Studies, contents of, 282, 603
Michigan Historical Commission, work of, 467, 468
Michilimackinac, Indian traders at, 332
Middle class, rise of power of, 151
Middle West, Great, Eighty Years Ago in the, 278
Middleman, The, 116
Middleton, Thomas C., article by, 464; reference to, 622
Midland Schools, contents of, 286, 455
Miles, H. E., article by, 274, 452
Military departments, United States, in 1844, 74
Military Roads of northeastern Iowa, 459

Militia, law relative to, 441; sheriff's power over, 558
Mill, James, in Leadenhall Street, 274
Mill, water, passing of, in Iowa, 125
Miller, Charles W., article by, 274
Miller, Daniel F., nomination of, for Congress, 44; biographical sketch of, 46, 47; approval of, 58; fighting chance of, 64; principles of, 65; votes for, 67; contest of, for seat in Congress, 67
Miller, E. E., article by, 449
Miller, E. J., article by, 611
Miller, E. T., article by, 129
Miller, L. J., 298
Miller, Samuel F., sketch of life of, 459
Miller, Towne L., article by, 295
Miller, William E., statement of, 211; annotated code of, 212, 213, 217, 220; compilation by, 215; code annotations by, 406
Millionaires, description of, 163
Mills, O. H., article by, 289, 618
Mills, W. C., 627
Mills, erection of, 12, 14; land grants for building of, 22, 23, 24
Mills, Flour, The Story of Iowa's Early, 455
Mills and Company, code published by, 213, 218, 219
Mills County, Lewis and Clark in, 331; Trader's Point in, 344; Mormons in, 362
Mims, Edwin, article by, 451
Mine Creek, Union victory at, 250; capture of General Marmaduke at, 252; official report of battle of, 256
Mine Ventilation, Practical, 457
Mineral lands, 4
Miner's Express, letter in, 56
Mines, Americans attracted by, 7; lead, 24; Indian trade at, 525, 526; ventilation of, 590
Mining communities, elections at, 551
Minitaree Indians, 264
Minneapolis, 223
Minnesota, description of southern part of, 77, 78, 93, 94, 95, 96; early government in, 84; Republican victory in, 160; foreigner's visit to, 221, 246; settlement of, 269; early Indians of, 324; Sioux tribes in, 325, 338; Granger movement in, 602
Minnesota, Southern, Social and Economic Survey of a Rural Township in, 454
Minnesota, University of, publication of, 454; department of political science at, 630
Minnesota Biographies 1655-1912, review of, 269
Minnesota country, expedition into, in 1845, 259-266
Minnesota Historical Society, publication by, 269; activities of, 467; monographs issued by, 624
Minnesota Rate Cases, The, 608
Minnesota River, Sioux Indians on, 71, 101; troops upon, 260; fort on, 336
Minor, Mrs. Kate P., compilation by, 273
Minor Chord, The, 123
Mintun, James F., article by, 615
Mission, Jesuit, founding of, in western Iowa, 346, 397; work of, 348-355
Missionary Explorers among the American Indians, review of, 444
Missions, Foreign, and World Peace, 274
Mississippi, State of, reconstruction in, 623
Mississippi, Upper, Preparing the, for Modern Commerce, 278
Mississippi Historical Society, Publications of the, contents of volume of, 623
Mississippi River, Spanish land grants upon, 41; need of improvement of, 59, 61, 64; discovery of sources of, 69; early visitors to, 132; importance of control of, 150; description of, 223; greetings to, 223; settlements in Iowa along, 323; Le Sueur's journey up, 324; ferry boats on, 339, 359; descent of, by Sac Indians, 520, 521
Mississippi Valley, development of, since Civil War, 155, 156, 165; French adventures in, 268; activities of English in, 269; French explorations of, 299; immigration to, 314; Americanization of, 321; Nicollet's map of, 350; Nicollet's exploration of, 351; adventures in, 444; early explorations of, 445; British traders in, 518, 519; romantic tales of, 601
Mississippi Valley Historical Association, meeting of, 134, 468; announcement of meeting of, 297
Mississippi Valley Historical Association, Proceedings of the, contents of, 109, 110; reference to, 124
Mississippital, Die Erste Deutsche Einwanderung in das, 626
Missoula to Walla Walla, From, 130
Missouri, migration to, 7, 315, 316; Supreme Court of, adjudications of, 15; confirmation of land claims situated in, 25; adjustment of land titles in, 28, 29, 36; unconfirmed claims in, 30, 37; Oregon trail across, 84; Greenback Party in, 155; Iowa troops in, 254; jurisdiction of, in Iowa Territory, 323, 363; Indians in northwestern corner of, 337, 338, 340; removal of Indians from, 342; dispute over northern boundary of, 343; county government in, 452; government factory in, 517; earthquakes in, 622

Missouri, Early Railroads in, 465
Missouri, Northeast, The Story of the Civil War in, 292, 465
Missouri, Some Notes on the Aboriginal Inhabitants of, 132
Missouri, Territory of, land grants in, 21; report on land titles in, 26, 27
Missouri, The University of, Studies, contents of, 118
Missouri, University of, Hungarian appointed to chair in, 505, 507
Missouri Baptist General Association, History of, 292
Missouri Fur Company, operations of, 333, 334, 335
Missouri Historical Review, contents of, 128, 292, 465, 622
Missouri Historical Society, documents in custody of, 135; publication by, 271; plans and activities of, 292; report of progress of, 297; new home of, 627
Missouri Historical Society Collections, contents of, 131, 622
Missouri Indians, trade with, 326; council with, 335; treaty with, 337, 338
Missouri River, Mormon camp on, 72; expedition to, 75; bluffs on, 79; floods of, in 1844, 83; view of valley of, 103; junction of Big Sioux with, 104; French traders on, 326, 327; English traders on, 328, 329; Indian trade on, 329, 330, 331, 333, 334, 518; journeys up, along western Iowa, 330-335; British control of Indians on, 334; steamboats on, 335, 338, 339; crossing-place on, 344; difficult navigation of, 346; fur trade on, 356; ferry across, 362; Sacs and Foxes on, 539
Missouri's Eleven State Capitols, 622
Mitchell, John, article by, 452
Mitchell, R. B., Indian agency of, 362
Mitchell, S. C., pamphlet by, 111
Mitchell, T. W., article by, 614
Mitchellville, school at, 578
Mixteca, Notes on the, 294
Moffat, R. Burnham, book by, 446
Moffit, Alexander, 472
Mohegan Indians, missionary of, 444
Mohonk Conference, The Mission of the, 610
Moine, Frank W., 473
Moingona, town of, 85
Monetary reform, 275
Monetary Standard Based on Index Numbers, Objections to a, 451
Monetary System, A Change in Our, 448
Monetary System, How to Improve Our, 121
Monetary System, New, Clearing House Basis for the, 615
Money, Ways of Earning, 615
Money, demand for, 147, 157
"Money power", attack on, in American history, 151
Monges des homme, Indians under, 527
Mongolia, remains of race in, 280
Monona County, Lewis and Clark in, 332; district court of, 555
Monopoly and Competitive Prices, 609
Monroe County, act relative to elections in, 551
Monroe Doctrine Abroad in 1823-24, The, 115
Montcalm, General, letter of, 327
Montgomery, Mrs. Macy F., 298
Montgomery, Mrs. Rachel (Harvey), 464
Monterey, battle of, 48
Montreal, Ioway Indians at, 326, 327
Moody County (South Dakota), dragoons in, 98
Moon Law, extension of, 575
Moore, Blaine F., monograph by, 449
Moore, Charles A., Jr., article by, 449
Moore, H. G., 469
Moore, Joel R., article by, 452
Moore, Napoleon B., 173
Moore, Opha, article by, 114
Moore, Thomas, poems of, 255
Moore, W. F., 136
Moorehead, Warren K., article by, 280
Moot, Adelbert, article by, 451
Morales, Juan Ventura, regulations issued by, 9, 33
Moravian Mission Near Anderson, The, 625
Moravians, difficulties of, 133
Morcombe, Joseph E., article by, 121, 284
Morgan, John Pierpont, 449
Morgan and Company, Messrs. J. P., letter from, 273
Morison, J. L., paper by, 112
Mormon, Book of, Prehistoric America and the, 286
Mormon Battalion, enlistment of, in Mexican War, 72
Mormon Church, History of the, 610
Mormon Trail, marking of, 138; making of, 617
Mormon Trail Across Iowa, The, 298
Mormons, settlements of, in western Iowa, 324, 361, 362; flight of, to West, 361, 362; home of, in Decatur County, 516
Morrill Land Grant Colleges, 289
Morris, E. P., article by, 449
Morriss, Bert J., article by, 283
Morrow, William M., 47
Mortgages, 584
Mortimer, Benjamin, diary of, 466
Morton, Charles, article by, 112
Moses, Bernard, article by, 614

Mosier, Hal H., 136
Mosquito River, Indian village on, 355; reference to, 356
Mothers, Pensions for, 452, 610
Mothers' Pension, 576
Motor vehicles, registration of, 567; laws relative to, 568-570; taxation of, 569
Mott, Hopper S., article by, 610
Moulton, H. G., article by, 115
Mound, The Serpent, 283
Mound builders, 109, 445
Mounds, Louisa County, 459
Mt. Pisgah, Mormons at, 72, 361
Mt. Pleasant, grave of founder of, 289
Mt. Vernon, part of Iowa women in preservation of, 459
Mowry, Duane, article by, 448, 610
Muck rake speech, 163
Mucketemeshuck, 521
Mudd, Joseph A., article by, 292
Mueller, H. A., 298
Muhlenberg, John P. G., 291
Muhlenberg, General Peter, The Crisis in the Early Life of, 625
Muhlenberg County, Kentucky, History of, 291
Muirhead, F. A., article by, 617
Mulct Law, Iowa Cities Under, 614
Mulkern, M. B., 173
Mullan, Charles W., 469
Munger, Albert P., 473
Munich (Germany), incident at, 493
Municipal Accounting Department, State, duty of Chief Clerk of, 559
Municipal Affairs, Simplicity, Publicity and Efficiency in, 277
Municipal Bonds, Some Legal Aspects of the Sale of, 608
Municipal Code Committee, report of, 433
Municipal corporations, government of, 430
Municipal Finances and Taxation, 114
Municipal government, bills relative to, 434; short ballot in, 552; legislation on, in Iowa, 559-562; taxation by, 599
Municipal Government, Instruction in, in the Universities and Colleges of the United States, 607
Municipal Information, Bureau of, 631
Municipal Laws, New Iowa, 614
Municipal Ownership, Success of, 456
Municipal Philosophy, 614
Municipal Research, Bureau of, of Dayton, Ohio, 282
Municipal Revenues in Illinois, Sources of, 119
Municipal Review, National, contents of, 114, 277, 448, 607
Municipalities, American, contents of, 122, 286, 456, 614
Municipalities, Iowa, League of, convention of, 122, 630; activity of, in 1900, 433; legal recognition of, 559
Municipalities, The March of Democracy in, 448
Municipality, relation of State to, 630
Munn vs. Illinois, decision in, 156
Munro, William B., article by, 114, 607
Muntingh, Mr., visit to farm of, 232, 233
Murphy, Bernard, contract with, 435
Murray, Benj. F., resolution of, 195, 196
Murray, Walter C., article by, 294
Murray, William, 472
Murray County (Minnesota), 92
Muscatine, smoke nuisance in, 573
Muscatine County, Whigs in, 67
Muscovy Company, The Organization and Early History of the, 272
Museum and State Progress, The State, 611
Music as an International Language, 446
Music Lovers' Cyclopedia, 288
Musick, David, certificate issued to, 25
Muskegon River, fur trade on, 313
Muskhogean Stock, Indians of the, Animal Stories from the, 624
Mutual Insurance, Compulsory, Advantages of, 610
Myers, Harriet W., book by, 616
Myers, William S., address by, 611
Mynster Spring, site of, 344, 345
Mystic Mansion, The, 127
Mythology of the North American Indians, The, 279

Names, Indian, beauty of, 228
Napoleon, code of, 170; Louisiana sold by, 258, 329; reference to, 309
Nash, Frank, article by, 128, 465
National conventions, selection of delegates to, from Iowa, 550
National Municipal Review, contents of, 114, 277, 448, 607
Natural History, American Museum of, handbook of, 119
Natural History, American Museum of, Anthropological Papers of the, 613
Nauvoo (Illinois), removal of Mormons from, 72
Naval militia, 441
Navy List, United States, Some Catholic Names in, 294
Neale's Monthly, contents of, 277
Nebraska, farmers in, 158; Democrats from, 160; Republican victory in, 161; pageant of scenes in history of, 471, 472; noted Hungarian of, 507
Nebraska, A Prehistoric "Cannibal" House in, 621
Nebraska, History of, 612

Nebraska, State Bank Guarantee Law in, 121
Nebraska country, Indians in, 324; trading operations in, 341; missionary in, 341; Indians in, 343
Nebraska History Teachers' Association, meeting of, 468
Nebraska State Historical Society, session of, 468
Needham, James, journeys of, 269
Negligence, liability for, 589
Negotiable instruments, law of, in Iowa, 436
Negro, status of, in Ohio, 603
Negro Suffrage to 1860, The Development of Sentiment on, 453
Negroes, intermarriage of whites and, 600; free, in Virginia, 605
Negro's Progress in Fifty Years, The, 609
Neidig, Mrs. C. A., work of, 422
Nelson, Admiral, effect of example of, 308
Neutral Ground, sketch of, 85; fort in, 258
Nevada (Iowa), meeting at, 138
Nevin, A. Parker, article by, 274
Newberry Library, bibliography published by, 118
New Bourbon, commandant of, 10, 11; village of, 23; village claim of, 26
New Brittaine, discovery of, 268
New Brunswick, History of the Presbytery of, 292, 622
New Brunswick, The First Settlers of, 127
New Buda, Hungarian colony at, 479; founding of, 485; post-office at, 485; removal of Hungarians from, 488; patriots of, 492, 494, 496, 499, 504, 506, 510, 513; frenzied finance at, 502, 503, 504; promoter of, 503; notoriety of, in Europe, 512, 513; life of exiles at, 514-516; passing of, 516
Newell, Homer E., motion of, 174
New England, commercial class of, 149; effect of Embargo Act on, 150; aristocracy of, 151; emigration from, 314; county government in, 452
New England, The Records of the Council for, 607
New England Conscience, The, 609
New England Historic Genealogical Society, proceedings of, 461
New England Historical Genealogical Register, The, contents of, 128, 621; supplement to, 461
New Hampshire Historical Society, Dedication of the Building of the, 127
New Jersey, The Councils of the Proprietors of, 462
New Jersey, The Separation of, from New York, 462
New Jersey Historical Society, Proceedings of the, contents of, 127, 462
New Madrid (Missouri), Spanish land system at, 6; settlers at, 7; commissioners at, 19; village of, 23, 26; visit to, 133
New Madrid, Tennessee, Notes of a Journey from Philadelphia to, 132, 133
Newman, James B., article by, 456
New Mexican Folk Lore, 624
New Mexico, acquisition of, 41; military commander of, 259; Spanish trade in, 624
New Mexico, Historical Society of, official bulletin of, 454; home of, 471
New Mexico, Museum of, home of, 471
New Mexico, University of, Bulletin of the, contents of, 282
New Mexico under Mexican Administration 1821-1846, 454
New Orleans, early journeys to, 7, 12; markets of, 223; reference to, 301
Newport (Rhode Island), 180
New Spain, The Viceroy of, 613
Newspaper, The Modern, As It Is, 113
Newspaper, The Modern, As It Might Be, 272
Newspaper Publicity Law, The, 278
Newspapers, political views of, in 1848, 60, 61; recent historical items in, 125, 289, 458, 617; something about, of Iowa, 290; comment of, on action of Twenty-sixth General Assembly, 392-398; official notices in, 559
Newspapers, American Eighteenth Century, A Check List of, 271
New Testament Manuscripts in the Freer Collection, The, 272
New Year Day, Indian practice on, 530
New York, commercial interests in, 149; code of, 184, 187; emigration from, 315; treatment of Hungarians in, 487
New York, Cayuga and Seneca as Proprietaries in the Annals of, 621
New York, City Plan of, Selected List of References Bearing on the, 447
New York, The Development of Elementary Schools in the State of, 611
New York City, reception of Bryan at, 161; churches of, 245; gambling in, 376; police in, 607
New York City Finances, 448
New York Court of Appeals, Progress in the, 117
New York in the Thirties, 117
New York Police, Vice, Crime, and the, 608
New York Police Situation, The, 607
New York Public Library, Bulletin of the, contents of, 112, 272, 447, 606
New York State Education Building, Pro-

ceedings of the Dedication of the, contents of, 611
New York State Museum, Work of the Anthropological Section in the, 294
New York Subway Contracts, The, 607
New York's First Irish Emigrant Society, 295
Nichols, A. L., 44
Nichols, Charles L., article by, 127
Nicollet, Jean Nicolas, explorations of, 69, 70, 268; map of Upper Mississippi River by, 73, 97; report of, on Metis of Red River, 263, 264; expedition of, in 1839, 350; observations of, 351
Ninth Iowa Volunteer Infantry, Company E, member of, 139
Nissen, Ludwig, article by, 114, 448
Nixon, Joseph R., article by, 128
Noble, Patrick, part of, in expedition, 74, 92; orders sent to, 93; camp of, 95, 96, 104
Nodaway River, 339
Nollen, John S., book edited by, 124
Nomination papers, filing of, 551
Nominations, provision relative to, 554
Nonconformity under the "Clarendon Code", 131
Norfolk County Deeds, 1671-1689, 291
Normal courses, 592
Normal institutes, conducting of, 592
Normal schools, 600
Normal Schools, Iowa Needs More, 286
Normal training, requirement of, 591
North, Presidents from, 49; view of Whigs of, 62
North America, Some Traditions of the Earliest Visits of Foreigners to, 278
North Carolina, State Literary and Historical Association of, Proceedings of the Thirteenth Annual Session of the, contents of, 464, 465
North Carolina, The Historical Foundations of Democracy in, 465
North Carolina, Western, German Settlers in, 128
North Carolina City Schools, 1867-1887, The Beginnings of, 604
North Carolina Constitution and Its Makers, The, 128
North Carolina Historical Commission, collections of, 467
North Carolina History, Neglected Phases of, 465
North Dakota, 84; Republican victory in, 160; half-breed Indians in, 263
North Dakota, Poor Relief and Jails in, 283
North Dakota, University of, The Quarterly Journal of the, contents of, 283, 452, 613
Northwest, Old, land claims in, 3; early Indian history of, 295
Northwest, Indians of, expedition to, 69
Northwest, Far, Independence Day in the, 623
Northwest Territory, The Controversy over the, 450
Northwestern Banker, The, contents of, 121, 285, 455, 615
Northwestern Reporter, citations from, 424, 429, 432
Norton, Grace P., article by, 274
Norton, Ray, book by, 124
Norton, W. T., article by, 623
Norwood, J. W., article by, 121
Noteboom, Caroline M., 469
Noteboom, Charlotte M., 469
Notes and Comment, 138, 300, 471, 630
Nova Scotia Historical Society, Collections of the, 294
Nova Scotians, Eminent, of New England Birth, 621
Nuisances, prevention of, 572
Nussbaum, Frederick L., article by, 112
Nuts, sale of, 586
Nuttall, Mrs. Zelia, discovery by, 297
Nyári, Paul, views of, 491

O'Brien, Steve A., 628
O'Connor, Edward, 136
O'Connor, Henry, life of, 465
Occum, Samuel, life of, 444
Occupational Diseases, Compensation for, 451
O'Donnell, Frederick, resolutions of, 189
Offender, Present Day Aims and Methods in Studying the, 606
Office, rotation in, 322
Officers, election of, by people, 151; compensation of, 187; oaths of, 203; publication of code extracts by, 430; appointment of, 552; increase of salaries of, 555, 556; fees collected by, 557; money appropriated for, 596
Oglala Division of the Teton-Dakota, Societies and Ceremonial Associations in the, 283
Ohio, changes in constitution of, 115; mounds in, 134; removal of Senecas from, 278; immigration to, 315; emigration from, 316; natives of, in Iowa, 319; status of negro in, 603; prehistoric monuments in, 630
Ohio, Falls of the, 278
Ohio, Financial History of, contents of, 110, 111
Ohio, Historical and Philosophical Society of, Quarterly Publication of the, contents of, 291, 466, 622

Ohio, Industrial Commission of, 607
Ohio, Settlement of the Randolph Slaves in, 110
Ohio, Ship and Brig Building on the, 296
Ohio, Some Documentary History of, 130
Ohio, Southern, Relation of, to the South During the Decade Preceding the Civil War, 466
Ohio, The Constitutional Election in, 114
Ohio, Upper, Frontier Defense on the, 1777-1778, review of, 269
Ohio Archaeological and Historical Quarterly, contents of, 130, 296, 466, 626
Ohio Archaeological and Historical Society, activities of, 134; meeting of, 627
Ohio Cities, Progressive Charters for, 608
Ohio-Columbus Centennial, The, 130
Ohio Company, 13
Ohio-Erie Boundary, The Evolution of the, 466
Ohio Frontier in 1812, The, 466
Ohio Model Charter Law, 611
Ohio River, territory south of, land claims in, 3; reference to, 268; falls of, 602; fort at mouth of, 602
Ohio River in Western Expansion, The Influence of the, 296
Ohio State and Union College, 371
Ohio Valley, immigration to, 314
Ohio Valley, The Relation of New England to the, 296
Ohio Valley Historical Association, fifth annual meeting of, 296
Ohio Waters, The Discovery of, 268
Oil inspection, laws relative to, 400
Oklahoma, roads in, 285; noted Hungarian of, 507
Oklahoma Historical Society, publication of, 620
Oktibbeha County, Reconstruction in, 623
O'Laughlin, John C., article by, 608
Olbrich, Emil, thesis of, 453
Old Four-Toes, 124
Old Time and Young Tom, 122
Oliver, Ernest A., article by, 120
Oliver, Thomas, article by, 279
Olmstead, John B., article by, 608
Olympic Peaks, The Story of Three, 623
Omaha, Bryan's work at, 160; site of present city of, 341
Omaha Indians, hunting-grounds of, 328; treaty with, 337; villages of, 338; mission of, 341; priests visited by, 349
Omega, journey of, 357
Omnibus Bill, recent, 596
O'Neal, Governor, speech of, 546, 547
O'Neill, Jean C., article by, 450
Onondaga County, New York, Revolutionary Soldiers of, 620
Onondaga Historical Association, Publications of the, contents of, 620
Orange City, Hollanders at, 221; founding of, 235, 236; foreigner's visit to, in 1873, 241, 243; description of church life at, 243-246; early scenes at, 244, 245; church at, 246
Orchards, planting of, 24
Ordinance of 1787, 424
Ordinances, Spanish, relative to land grants, 3-6, 8, 9, 33; cases arising under city, 562
Oregon, controversy over, 45; Republican victory in, 160; route of emigration to, 259; emigration from Iowa to, 359, 360; missionary in, 444; election of senators in, 550
Oregon, Forestalling the Direct Primary in, 114
Oregon, History of, 293
Oregon, History of, Geographical and Political, 131
Oregon, Transmission of Intelligence in Early Days in, 623
Oregon, University of, The Proposed Commonwealth Service of the, 119
Oregon Bulletin, University of, contents of, 119
Oregon emigration societies, 359
Oregon Historical Society, The Quarterly of the, contents of, 129, 463, 623
Oregon Provisional Government, A Brief History of, 129
Oregon question, 623
Oregon Territory, Iowa settlers in, 84
Oregon Territory in 1844, Common Government for, 129
Oregon trail, existence of, in Iowa Territory, 84, 360; main route of, 84
O'Reilly, Alexander, land policy of, 4; land regulations of, 4-6, 33, 35; powers held by, 35
Orkney, Earl of, 292, 464
Orkney, The Trade of, at the End of the Eighteenth Century, 606
Orleans, Territory of, objection of, 17, 18
Osage (Kansas), battle near, 250, 254
Osage (Missouri), government factory at, 518
Osage Indians, war against, 524; sub-agent of, 527; reference to, 529; Sac journeys against, 536
Osborn, Henry F., address by, 611
Oskaloosa, death of John F. Lacey at, 631
Oskison, John M., article by, 612
Otoe Indians, early mention of, 324, 325; trade with, 326, 328; English influence over, 329; council with, 331, 335; claims of, 337; treaty with, 337; villages of,

338; Baptist mission of, 341; Merrill's influence over, 343; de Smet's visit to, 347
Ottawa Indians, land cession to, 339
Otto, Ralph, 422
Ottolenghi, S., article by, 450
Ottumwa, 227; smoke nuisance in, 573
Outlaws, fight against, 465
Overysel (Michigan), pioneer of, 236
Ox team, use of, 84

Pacific, American Interests in the, 296
Pacific Coast, Patriotism and, 115
Pacific Coast, Stories and Sketches from, 623
Pacific Coast History, Publications of the Academy of, contents of, 463, 464
Pacific Northwest, Pioneers of Iowa and of the, 132
Pacific Northwest Municipalities, 278
Packard, George, article by, 279
Pacon-Napope, 524
Pageant, historical, in Nebraska, 471, 472
Pageant Does for Local History, What the, 608
Pageant of Patriotism, A, 118
Paine, Thomas, National Historical Association, 620
Paine, Thomas: The Patriot, 603
Paine Memorial Association, pamphlet of, 620
Paine Monument, Rededication of the, 620
Painted Rock, mystery of, 289
Painters, Dutch, 242
Paleoliths of Kansas, A Consideration of the, 625
Palmer, A., 298
Palmer, George T., article by, 451
Palo Alto County, dragoons in, 87
Pan American Union, Bulletin of the, contents of, 113, 272
Panama, Glimpse of, 117
Panama Canal, tolls of, 282
Panama Canal, The Treaty Obligations of the United States Relating to the, 605, 610
Panama Canal Tolls: The Obligations of the United States, 448
Panama Canal Tolls be Arbitrated?, Should the, 276
Panola County, Reconstruction in, 623
Papago Indians, Traditions of, 128
Papago Verb Stems, 612
Papal Annates, The First Levy of, 131
Pa-pa-ma-ta-be, 313
Paper money, government, 158
Paradise Lost, The Theme of, 289
Pardons, law relative to, 376; Governor's grant of, 553
Paris Bourse, 276
Parish, John C., researches of, 299; book by, 601, 617, 629
Parish Register, The Romance of a, 468
Park commissioners, appointment of, 561
Parker, Alton B., vote for, 161; candidacy of, 163
Parker, Arthur C., article by, 294; periodical edited by, 611
Parker, Blythe, 473
Parker, Dorothy, 473
Parker, James, article by, 605
Parkin, Thomas, European visits of, 293
Parks, law relative to, 565
Parmelee, Maurice, article by, 606, 609
Parole, law relative to, of inebriates, 578, 579; violation of, 594
Parole, Board of, duty of, 577; report of, 579
Parole Law, The Administration of the, 122
Parrish, J. L., article by, 122
Parrish, Randall, book by, 124, 458, 617; article by, 456
Parrott, Matt, address of, 388; remarks of, 392; appointments by, 402
Parsons, Eugene, article by, 289
Parties, Third, movements of, in Iowa, 147; radical sentiment of, in West, 160
Partition fence, 427
Party system, beginnings of, in United States, 149
Pasadena (California), 301
Pashepiho, plan of, 521, 524; request of, 522; retreat of, 523
Passengers, carrying of, to fairs, 581
Past, Records of the, contents of, 127, 294, 461, 621
Pastures, village, 4, 6
Patents and the Sherman Act, 116
Pathfinder, The, 456
Patriarchal Narratives, The Historical Value of the, 605
Patriotism, demand of, 450, 451
Patriotism, Its Duty and Value, 279
Patten, Simon N., article by, 116, 279, 449, 452, 609
Patterson, J. G., opposition of, 173; motion of, 175
Patton, O. K., research work of, 470
Paul, George, resolution of, 190; reference to, 205
Pauper?, Why is the, 451
Paw Paw (Illinois), 318
Pawnee Loup Indians, 331; visit of, to western Iowa, 349; mission of, 341
Paxson, Frederick L., paper by, 282
Payne, Asa, 518; arrival of, at St. Louis, 543
Payne, C. W., life of, 458

Payne, Frank S., appointment of, 434
Payzant, John Y., article by, 294
Peace, American Love of, and European Skepticism, 605
Peace, The Phases of Progress Toward, 111
Peace Foundation, World, pamphlet of, 274
Peace Work, Organizing the, 604
Pearson, R. A., 136
Pease, J. G., article by, 115
Peckham, Stephen F., article by, 450
Pecuniary Valuation, The Institutional Character of, 274
Pecuniary Valuation, The Sphere of, 609
Péczely, Clara, 497
Péczely, Rev. Joseph, 497
Péczely, Joseph, Jr., 497
Pedestrian, Paragraphs of a, 289
Pedley, Frank, article by, 280
Peekskill (New York), 229
Pella, account of visit to Hollanders of, 228-235; settlement of, 228; church at, 229, 230; description of, in 1873, 230; churches of, 232; prosperity at, 234; serenade at, 235; daughter colony of, 235
Pella's Weekblad, 231
Pelzer, Louis, paper by, 110, 469; writings of, 142; reference to, 142, 474; article by, 468
PELZER, LOUIS, *The Spanish Land Grants of Upper Louisiana,* 3; *History Made by Plain Men,* 307
Penitentiary, building of, 202; breaking from, 376; salaries of officials of, 555; tax for, 576; labor of convicts at, 579; escapes from, 594
Pennsylvania, emigration across, 315; extradition in, 450
Pennsylvania, Early Letters from, 625
Pennsylvania, The Abolition of Slavery in, 132
Pennsylvania, University of, publication by, 272
Pennsylvania's Industrial Revolution, 607
Pennsylvania Line, The Itinerary of the, 133
Pennsylvania Magazine of History and Biography, The, contents of, 132, 625
Pennsylvania Society, The Year Book of the, contents of, 462
Penobscot, European Folk Tales Among the, 462
Penology, The New, 452
Penrose, Clement B., appointment and services of, 18-25; statement of, 22, 23
Pension Agency, Iowa, history of, 289
Pensions, grant of, by General Assembly, 471; acts relative to, in Iowa, 576; teachers', 600
Pensions, Old Age, 610
Pensions, Public, to Widows with Children, 279
Pensions as Wages, 609
People, advocate of will of, 65
People, Carrying Knowledge to the, 611
Peoples Party, first convention of, 158; platform of, 158; success of, 158
Pepeck, services of, 526, 530; escape of, 533; fears of, 534; reference to, 536, 537
Perkins, A. A., 460
Perkins, E. C., 469
Perrin, William B., resolution of, 386; motion of, 419
Perrot, Nicolas, visit of, to Iowa country, 132
Perry Victory Centennial Commemoration, 625
Personal Narrative, A, reprint of, 517
Personality, The Treatment of, by Locke, Berkeley and Hume, 118
Persons, Charles E., article by, 605
Persons, rights of, 186
Pesth (Hungary), 492
Pesti Hirlap, The, 506
Pests, law relative to, 586
Peterson, Edward, 136
Peterson, Henry J., book by, 124; paper by, 136; graduate work of, 627
Petition, settler's, for land grant, 10
Petroleum Products, Inspectors of, 426
Phaedrus, The Story of, 616
Philadelphia, Marriage Registers of Holy Trinity Church of, 622
Philadelphia, Notes of a Visit to, 133
Philadelphia, Some Facts Pertaining to the Tabernacle Presbyterian Church of, 292
Philadelphia, Taxation in, 277
Philadelphia, The Church of the Holy Trinity, 292
Philanthropy, Voluntary, Social Ideals Implied in Present American Programs of, 450
Philippine Independence, Pending Legislation Providing for, 280
Philippine Islands, retention of, 161
Philippine Islands, The Relation of the United States to the, 614
Philippine Issue, National Sincerity and the, 280
Philippines, The Non-Christians of the Southern Islands of the, 280
Philippines, What Americans Talk in the, 608
Philistines and Ancient Crete, The, 621
Phillips, Colonel, victory of troops under, 250, 251
Phillips, Henry M., prize offered by, 113
Phillips, Philip L., book edited by, 279

Phillips, Wendell, support of, in West, 152; reference to, 515
Philosophical Society, American, Proceedings of the, contents of, 113, 272, 446, 605; *Some Former Members of the,* 272
Phipps, W. O., 629
Physicians, duty of, 573; unprofessional conduct of, 593, 594
Physics, Department of, at State University, duty of, 585
Physiognomy, A Study of, 283, 453
Pickard, Josiah L., 342
Pierce, Frank G., article by, 456; work of, 559
Pierce, Franklin, order of, 487; message of, 514
Pierrepont Genealogies from Norman Times to 1913, 446
Pigeon Creek, 331
Pike Highway, The Old National, 121
Pilgrim Fathers, church worship of, 245
Pilgrim Magazine, The, publication of, 273
Pilgrim Tercentennial League, purpose of, 273
Pillsbury, Elder Phinehas, Extracts from Journal of, 128
Pioneer Dead of 1911, The, 131
Pioneers, training of, 147; foreigner's account of life of, 235, 238, 239, 240; Indian attacks on, 258; machinery of, 459
Piper, James, letters of, 293
Pipestone quarry, Indians near, 324, 333
Pistols, navy, present of, 254, 255
Pitt, William, and Westminster Elections, 296
Pittsburg Landing, battle of, 503
Pittsburgh (Pennsylvania), 46; steamboat journey from, 335
Pittsburgh: A Key to the West During the American Revolution, 296
Pittsburgh-Wheeling Rivalry, The, 296
Pitzer, John A., sketch of life of, 298
Plants, Useful, The Book of, 288, 617
Platte River (Missouri), Ioways on, 338 (See Little Platte River)
Platte River, journey along, 271; reference to, 325; school near mouth of, 341; Indians on, 349; Indian agency opposite mouth of, 354, 355
Playgrounds, law relative to, 565
Pleading, law of, 426
Pleasanton, General, 252
Pleasants, J. Hall, article by, 624
Pleydell, A. C., article by, 611
Plumb, Ralph H., article by, 295
Plumb chief, plan of, 521; report of, 524
Plumbers, law relative to, 561
Plunderer, The, 124
Plutocracy, opponents of, 153
Plymouth, Pennsylvania, Some Indian Graves at, 130
Plymouth County, dragoons in, 102, 103, 104, 105, 361
Plympton, Margaret D., article by, 279
Poems, book of, by B. P. Holst, 287
Point Aux Poulos, 361
Poles, part of, in Hungarian Revolution, 507
Police, State, law relative to, 478
Police, The Scientific, 450
Police Powers of the States, 113
Police regulation, 8
Police Surgeon, excitement in life of, 125
Police Tells, What the Ten-Year Sergeant of the, 607
Political Action, The Relation of Voluntary to, 279
Political and Social Science, The Annals of the American Academy of, contents of, 116, 277, 452, 609
Political parties, new alignment of, 165
Political Parties in Iowa, The Disintegration and Reorganization of, 110
Political Reforms, 114
Political Science, 458
Political Science Association, American, meeting of, 139
Political Science Association, American, Proceedings of the, contents of, 281
Political Science Quarterly, contents of, 114
Political Science Review, The American, contents of, 115, 281, 611
Politics, national, history of, since Civil War, 147; influence of big business on, 152, 153; place of, in history, 307
Politics, Forward Movements in, since the Civil War, by FRED E. HAYNES, 147
Politics, Humanizing, 116
Politics and Social Work, 116
Polk, James K., condemnation of administration of, 45, 52, 53; congratulation of, 49; use of veto power by, 60; administration of, 64
Polk County, county seat of, 71; nomination of judges in, 554; office of Sheriff of, 558
Polk County Pioneers' Club ,plan of, 467
Pollard, J. A. S., article by, 614
Polley, John C., appointment of, 174, 177; removal of, from Iowa, 179; work of, 181
Pollock, Sir Frederick, article by, 116
Polygamy, prohibition of, 600
Pomutz, George, escape of, to Iowa, 502; frenzied finance of, 502; promotion of New Buda by, 503; military career of, 503, 504; appointment of, 504; death

and debts of, 505; conferences at home of, 515
Ponce de Leon's Patents for Colonization, 292
Pools, A Classification of, and Associations Based on American Experience, 609
Poor, support of, 573
Poor relief, history of, in Iowa, 470
Poore, Alfred, article by, 291, 464
Popular government, belief in, 546
Population or Prosperity, 451
Populist Party, strength of, in West, 147; principles of, 153; birth of, 157; success of, in 1892, 158; influence of, on old parties, 159
Portage des Sioux, founder of, 13; village of, 23, 26
Porter, Claude R., appointment of, 379, 434
Post, August, 217
Post, Louis F., article by, 278
Postal savings banks, 158, 583
Potato Lake, Rusk County Mounds, 295
Pothier, Toussaint, store of, 539
Potomac Route to the West, Early Chapters in the Development of the, 291
Pottawattamie County, Lewis and Clark in, 331; Mormons in, 362
Pottawattamie Indians, country of, 75, 84; hunts of, 79; camp of, 106; land cession to, in Iowa, 339; westward emigration of, 340; date of removal of, to Iowa, 341, 342; agency buildings of, 343, 354; Sioux attacks on, 345, 350, 353, 354; de Smet's mission among, 347-355; use of liquor by, 349, 351, 352, 355; village of, 349; Sioux visit to, 353; protection of, by dragoons, 354, 356-359; fear of war between Sioux and, 356; departure of, to Kansas, 361, 362, 363; land cession by, 362; treaty with, ratified, 362
Potter, J. H., part of, in expedition, 74, 90; map made by, 75; report of, 95; buffalo shot by, 97; theft of horses of, 99, 100, 101, 104
Potter, L. F., 136
Poultry, stealing of, 594
Pound, Roscoe, article by, 115, 450, 611
Powell, B. E., article by, 278
Powell, Clifford, 302; graduation of, 469; reference to, 474
POWELL, CLIFFORD, *History of the Codes of Iowa Law,* 166, 364
Powell, E. Alexander, article by, 116
Powell, Thomas R., article by, 114
Powell's, William, Recollections, 466
Power, John T. P., resolution of, 402; reference to, 404, 421; appointment of, 414
Poweshiek County, transfer of, to first congressional district, 39; Whigs in, 67
Practice, rules of, 426; code of civil, 441
Pragmatism in Politics, 116
Prairie, areas of, in Iowa, 79, 85; dragoon expedition on, 85, 86, 87, 88; night on, 459
Prairie, An Artificial, 455
Prairie Creek, 87
Prairie dogs, 237
Prairie du Chien, 25, 535; treaty of 1830 at, 337; government factory and fort at, 518; express sent to, 538, 539
Prairies, fires on, in Iowa, 125, 237, 238; foreigner's description of, 225-227, 242; ride across, in winter, 243
Pratt, Edward E., article by, 116
Pratt, H. M., book by, 444, 445, 458
Pratt, Henry O., appointment of, 190; resolution of, 192, 193, 194; reference to, 196
Pratt, Joseph H., article by, 452
Pratt, Sereno S., article by, 449
Preëmption, advocates of, 62; right of, 224
Prehistoric Monuments, The National Preservation of, 295
Prehistoric monuments and sites, law relative to, 630
Prendergast, W. M., article by, 448
Presbyterian Historical Society, Journal of the, contents of, 292, 462, 622
Presidency in the Pending Campaign, The, 113
Presidency?, What is the Matter with the, 120
President of United States, direct election of, 600
President, The Election and Term of the, 449
Presidential elections, nature of congressional elections in years of, 41, 42; time of, 42
Presidential Reforms, The Proposed, 277
Press, political views of, in 1848, 60; view of, concerning legislatures, 546; criticism of General Assembly by, 547, 548
Price, Hiram, 457
Price, Richard R., article by, 286
Price, Sterling, defeat of, at Mine Creek, 250; route of army of, 494
Price, The Definition of, 115
Price Regulation, Governmental, The Economics of, 451
Prices, cause of falling of, 154, 156
Priests, Pioneer, of North America, 295
Primary, direct, purpose of, 153
Primary Election Law, 440
Primary Elections, advocate of, 165; legislative provisions relative to, 550, 551
Primary Elections in Iowa, 123, 136
Primary law, provisions of, 554

Primm, Wilson, article by, 622
Primm, Judge Wilson, A Biographical Sketch of, 622
Princeton (Missouri), post-office at, 485; Hungarians at, 504; life at, in 1856, 505
Printer, State, delay of, 195; code printed by, 208, 423; prices of, 412, 413; opposition to, 414; work of, 435
Prison Labor, papers on, 452
Prison Labor, The Problem of, 452
Prison reform, 276, 600
Prison systems, southern, 285
Prisoners, employment of, 567
Prisoners, Employment of, 285, 288
Prisons, War-time, in Virginia, 117
Pritchett, Henry S., address by, 611
Privacy, The Law of, 116
Privilege, Inference from Claim of, by Accused, 275
Problems of To-day that Demand Consideration, 285
Procedural Reform, A Progressive Program for, 113
Procedure, judicial, 600
Procedure, Legal, Progress in Reform of, 116
Proctor, Henry, article by, 118
Professions, learned, law relative to practice of, 593, 594
Professions, Preparation for the, 611
Progressive Party, evils opposed by, 152, 153; rise and principles of, 164, 165
Progressive Party, Certain Retrogressive Policies of the, 281
Progressive Party, The, 112
Prohibition, period of, in Iowa, 140; question of, in Iowa, 395
Prohibitory amendment, resubmission of, 600
Property, law of, 170, 217; tax valuation of, 595; taxation of, 597
Prosch, Thomas W., article by, 293, 463
Prostitution, solicitation for, 595
Protection, The Fruitful Policy, 114
Protective tariff, 62
Protestants, missions of, remark about, 347
Providence Before 1850, 450
Pryor, Nathaniel, sketch of life of, 526, 527; smelting-furnace of, 532; escape of, from Winnebago Indians, 540, 541; report of death of, 542
Psychology in Daily Life, 617
Puant Indians, report concerning, 542
Public Efficiency, Bureaus of, 277
Public Instruction, Superintendent of, contest for office of, 43; legal provision for appointment of, 552
Public Opinion, Some Effects of Inertia on, 134
Public Safety, laws relative to, 569-572
Public Service Valuation, Ethical and Economic Elements in, 115
Public services, 609
Public utilities, 115; legislation relative to, in Iowa, 564, 572, 580, 600
Public Utilities, State vs. Municipal Regulation of, 277
Public Utility, The, and Its Relation to the Public, 122
Public Utility Statistics, Report of the Commission on, 286
Public Works, Board of, duty of, 564
Publications, Some, 109, 268, 444, 601
Publicity, advocate of, 165; success of pioneer, 289
Pueblo Indians, 282
Pujo, A. P., 273
Pullman Car, description of, in 1873, 222
Pumpelly, Josiah C., article by, 117
Pupils, tuition of, 591
Pure food law, 441; enactment of, in Iowa, 574; violations of, 585
Pusey, N. M., appointment of, 388, 389, 402
Putnam, Charles E., 457
Putnam, Frank, article by, 614
Putnam, George H., article by, 117

Quaife, Milo M., book by, 617
Quakers, history of, 470, 628
Quakers, The, in the Old Northwest, 110
Quartz, beds of, 78, 80, 100
Quashquame-nom-wait, report of, 525
Queens County, Notes Historical and Otherwise of the Northern District of, 294
Quick, J. H., appointment of, 433
Quillin, Frank U., book by, 603
Quincys Gründung und das Deutsche Element in der Entwickelung der Stadt, 626
Quisenberry, A. C., article by, 291, 463

Raccoon River, expedition to mouth of, 71; floods of, in 1844, 83; dragoons in valley of, 107, 108
Raccoon Valley, description of, 79
Race Adjustment, The Basis of, 279
Race Awakening, The, 611
Race prejudice, history of, in northern State, 603
Races, The Antagonism of, 287
Radisson, Pierre, visit of, to Iowa country, 132; explorations of, 268, 269
Radnich, Stephen, capture and escape of, 507-510; life of, at New Buda, 511
Railroad Building, Service and Revenue, 608
Railroad Commissioner, Experience of a, 608

Railroad Commissioners, State, origin of, 157; powers of, 582
Railroad laws, proposed change of, 395
Railroad Meetings, calling of, in 1848, 60
Railroad Problems, Some, 122
Railroad Question, The, 140
Railroad Strikes since 1877, 276
Railroading, account of, half century ago, 290
Railroads, failure to secure land grants for, 55, 56, 59, 64; arguments in favor of, in Iowa, 56; regulation of, in Iowa, 140, 153, 163; demand for, in West, 156; farmers' movement against charges of, 156, 157; regulation of, in United States, 156, 157; government ownership of, 158; rates of, 165; taxation of, 165, 202; land grants to, 224; sale of stocks of, in Europe, 227, 228; blessing of, in America, 239; description of coaches on, 240; controversy between engineers and, 274; laws relative to, 394, 400; laws relative to safety on, 572; sanitary closets of, 573; taxation in aid of, 580, 581; law relative to service of, 581; crossings of, 581, 582
Railroads of the "Old Northwest" Before the Civil War, The, 282
Railway Accidents, American, 278
Railway Economics, Bureau of, 446
Railway Facilities, The Country's Need of Greater, 608
Railway legislation, Granger, 603
Railway Library, The, 1912, 608
Railway Nationalization, 608
Railways, Government Ownership of, A List of References Pertaining to the, 446
Railways, Making a Valuation of Our, 608
Ramsdell, C. W., 467
Ranck, Cyrus S., appointment of, 389, 402
Randall, E. O., 627
Randall, Frank L., article by, 113
Randall, James G., article by, 131
Randolph, John, lunacy of, 275
Randolph Manuscript, The, extracts from, 129, 292, 464
Random Rhymes, and the Three Queens, 458
Rankin, Mr., investigation of, 207
Ransdell, Joseph E., article by, 117
Rant-Che-Wai-Me, 224
Rate Regulation, Original Cost Versus Replacement Cost as a Basis for, 605
Raymond, William G., article by, 286
Read, Martin, resolution of, 194
Real estate, easements in, 203; conveyance of, by corporations, 425; loans of money on, 583; mortgages on, 584
Real Estate, Valuation of, for Taxation, 448
Recall, purpose of, 153; articles on, 282
Recall, The Judicial, 122
Reciprocity, 277
Reciprocity, Selected Articles on, 458
Reconstruction, period of, 445; study of, in Mississippi, 623
Recorder, city, duty of, 555
Recorders, County, salary of, 558; report to, 571; articles of incorporation in office of, 580
Records of the Past, contents of, 127, 294, 461, 621
Recreation centers, law relative to, 565
Red, William S., 624
Red Ball Route, law relative to, 569
Red River, Metis of, description of, 263, 264, 265
Rederus, S. F., 469
Redwood River, 94
Reed, David W., 473
Reed, E. E., 469
Reed, Mrs. E. F., reminiscence of, 491, 494
Reed, M. D., bill of, 365, 366
Reed, Thomas H., article by, 120, 614
Reeder, A. C., 472
Reeder, John W., 472
Reeder, W. B., 472
Reeves, Jesse S., work of, 135
Referendum, purpose of, 153; reference to, 546; provision for, in Iowa, 550
Reformatories, State, tax for, 576; support funds of, 598
Reformatory, State, salaries of officials of, 555; escape from, 594
Refrigerating warehouses, act relative to, 574
Register and Leader, The, articles in, 125, 289, 458, 617
Registration, provision for, 551
Regulations, Spanish, relative to land grants, 3-6, 8; effect of, passed by O'Reilley, 4-6, 35; character of, passed by de Lemos, 8; nature of, passed by Morales, 9, 10; court decision relative to, 33
Reid, Nina K., article by, 625
Reid, Whitelaw, address by, 611
Reiff, Paul F., monograph by, 453
Reiniger, R. G., 175
Reinsch, Paul S., article by, 281; discussion by, 603; paper by, 605; appointment of, 630
Relfe, James H., appointment of, 31
Religion, place of, in history, 307, 321
Religion, A Man's, 288
Religious Education in the New World-View, 446
Remey, William B., 471
Representatives, election of, to Congress, 38, 39, 42, 67

Republic, Forerunners of the, 277
Republican Convention of 1875, The Stampede from General Weaver in the, 465
Republican Party, founders of, in Iowa, 47, 66; founding of, in Iowa, 63; evolution of, 148, 149; origin of planks in platform of, 154; greenbacks and, 154; victory of, in late campaigns over Bryanism, 160, 161; break in ranks of, 164, 165; revision of laws urged by, 442
Republican Party, The, 112
Research, work in, at Iowa City, 470
Research and Reference Bureaus, 277
Reservations, Indian, conditions on, 612
Reserve Associations, A Plan for Separate, 121
Resumption Act, passage of, 154, 157; opponents of, 155
Retrenchment and Reform, Joint Committee on, powers of, 557
Revenue, need of increase of, in Iowa, 596
Revenue Commission of 1892, report of, 376
Revenue laws, revision of, 216, 217, 398; need of change in, 364; report on, 374
Revenue tariff, 62
Review, board of, 560
Review of Reviews, The American, contents of, 116, 278, 449, 608
Revision of 1860, amendment of, 166; dissatisfaction with, 166-169; nature of, 167, 168, 169; criticism of, 182, 185, 187; editor of, 420
Revolution, American, account of, in West, 602
Revolution, American, Iowa Society of Daughters of, plan of, 138; Keokuk chapter, statue ordered by, 139
Revolution, American, Iowa Sons of the, medals awarded by, 471
Revolution, American, of 1776, Religious Controversy as Effecting the, 448
Revolution, American, Soldiers of the, Who Are Buried in Illinois, 464
Revolution of 1848, results of, in Europe, 479, 480; reason for, 481; phase of, in Hungary, 497
Revolutionary Pension Declarations, 292
Revolutionary Soldiers of Virginia, List of the, 604
Revolutionary War, progress of, in West, 269, 270
Reynolds, George M., article by, 615
Reynolds, John, 463
Reynolds, John H., office of, 133
Rhode Island, statute of, in Iowa, 203
Rhode Island and Massachusetts, The Famous Boundary Dispute Between, 450
Rhyme, Stories in, 287
Rich, Joseph W., enlistment of, 473
Richards, Charles B., article by, 621
Richardson, David C., 468
Richland (Vermont), emigration from, 315
Richman, J. Scott, 52
Richmond, Virginia, Newspapers, List of Obituaries from, 129
Ricker, Benj. J., 299
Riddell, William R., address by, 122; article by, 450
Ridge, Down on the, 124
Riggs, Stephen, life of, 444
Rikara Indians, 264
Riley, Franklin L., book edited by, 623
Riley, L. A., bill of, 216
Ringoes, The Settlement and Settlers of, 127
Ripley, Erastus, sketch of life of, 285
Risk, assumption of, 589
Ritchie, Donald J. A., 136
River, early days on, 125
River and Harbor Bill, veto of, 63
River Improvement, A New Method of, 120
River to River Road, law relative to, 569
River's Death Toll, The, 461
Rivers, improvement of, 45; need of improvement of, 53
Rivers and Harbors Congress, The National, 117
Rives, George L., article by, 296
Roach, Cornelius, article by, 622
Road Administration, State and County, Organization for, 286
Road Improvement and Automobile Tax, 121
Road laws, compilation of, 175, 176; code of, 214, 217; need of revision of, 441, 442
Road legislation, Governor's power in, 553
Road Legislation in Iowa, History of, 122, 135, 136
Road-Maker, The, contents of, 121, 286, 455, 615
Roads, 4; construction of, 5; absence of, in northwestern Iowa, 241, 242; prevalence of bad, 315; recent legislation relative to, in Iowa, 566-568, 568-570, 586; work of prisoners on, 567; rule of, 569; hard surfaced, 600; address on subject of, 615
Roads, Good, and the Cost of Living, 121
Roads, Good, The Real Thing in, 286
Roads, Old Mud, A Story of the Passing of the, 615
Roads, Permanent: Are We Ready for Them?, 286
Roads Association, State Good, meeting of, 286
Roads Convention, Good, resolutions of, in 1910, 442

Roast Beef Medium, 287
Robbins, E. Clyde, books by, 458
Roberts, B. H., article by, 610
Robertson, William S., article by, 115
Robinson, A. G., article by, 278
Robinson, Edgar A., paper by, 134
Robinson, Gifford S., resolution of, 215; pamphlet by, 285; book by, 288
Robinson, H. E., article by, 128
Robinson, Leonard G., study by, 111
Robinson, Maurice H., article by, 115
Rochester (New York), 315
Rochussen, Mr., paintings by, 245
Rock, Peter, land claim of, 27
Rock Island, Winnebago Indians on, 540; arsenal on, 618
Rock River (Illinois), Winnebago Indians on, 527; Sac and Fox village on, 536
Rock River (Iowa), dragoons on, 102, 360; Indian land north of, 337, 338
Rockwood, Elbert W., book by, 288
Rockwood, Laura C., article by, 609
Rocky Mountain Herald, article in, 282
Rocky Mountains, dragoon expedition to, 259; Catholic missions in, 346; Fremont's expedition to, 355
Rocky Mountains in the Year 1839, A Journey to the, 270, 271
Rogers, Henry W., article by, 112
Rogers, Julia E., book by, 288, 617
Rolfe, John C., article by, 605
Rolling Thunder, 527
Roman Gentleman, Letters of a, 112
Roman Law, code of, 170
Romance, case of, 104
Rome, conquests by, 240
Roosevelt, Theodore, attack of, on Republican Party, 159; policies of, 162-164; republicanism of, 322; article by, 452; address by, 465
Root, Charles T., article by, 608
Root, Elihu, address by, 276; article by, 448
Rosenthal, Herman, article by, 449
Roszell, C. A. L., resolution of, 213
Rothert, Henry W., bill of, 213
Rothert, Otto A., article by, 291
Routes, automobile, 569
Rowen, John E., appointment of, 389
Roy, Baptiste, fur trade of, 341
Rubinow, I. M., article by, 607, 610
Rüdiger, General, surrender of Hungarians to, 479
Ruggles, Clyde O., article by, 468
Rural Social Center, The, 609
Russell, John H., monograph by, 605
Russell, John J., appointment of, 205
Russell, Minnie, 298
Russell, William, land claims of, 27
Russia, part of, in Hungarian revolution, 479; Consul General to, 504
Russian Ministers in Washington, Correspondence of the, 296, 465
Russian-American Commercial Relations, 114
Russians, part of, in Revolution, 493; Hungarians captured by, 498, 508
Rutland, 87
Ryan, D. J., 627
Ryan, J. D., book by, 461
Ryder, John J., article by, 456

Sabin, Edwin L., book by, 124, 617; article by, 456
Sac and Fox Agency, dragoons at, 70, 71; reference to, 539
Sac and Fox Indians, protection and removal of, 71; country of, 84, 224, 225, 332; cession by, 85; reference to, 258; trade with, 312; result of removal of, from Illinois, 313; traders harassed by, 326; hunting-grounds of, 328; treaty of 1830 with, 337; Missouri River, home of, 338, 539; description of, 347; treaty of 1804 with, 517, 521; government trade with, 518, 525, 526; British influence over, 519; Black Hawk's influence with, 519, 524; plans of, to attack Fort Madison, 519, 520, 521, 522; method of trade with, 520; poor hunts of, 520; visit of, to Fort Madison, 522; disappointment of, 523, 524, 525; lead mining by, 526, 529; Hunt's trade with, 527; Hunt visited by, 531; refusal of, to smoke pipe, 532; Hunt's flight to, 533; Hunt aided by, 535, 543; village of, 536; hospitality of, 537, 538; parties of, in 1812, 539; ceremony of, 541; Americans attacked by, in 1812, 543; Fort Madison attacked by, 543-545
Safety, public, promotion of, 582
Safety, Public, and Commission Government, 456
Saginash, life saved by name of, 525, 527, 542; greeting of, 530; reply of, 531; Indian pipe smoked by, 532
Sailors, widows of, 576
St. Andrews Parish, Register of, 128, 462, 623
St. Charles, district of, 23; village of, 23, 26; journey from Fort Madison to, in 1812, 540; letter from, in 1812, 542
St. Ferdinand, village of, 23, 26
St. Francis Xavier (Maryland), 622
St. John's Churchyard, The Vaults in, 292
St. Joseph mission, establishment of, in western Iowa, 346; visit of Omahas to, 349; Flatheads at, 353; end of, 355

St. Joseph River, fur trade on, 312
St. Lawrence River, fur trade on, 311
St. Louis, common near, 16; village of, 23; village claim of, 26; recorder of land titles in, 36; private claims in, 37; markets of, 223; fur traders at, 312; Flagg's journey to, 316; sketch of, in 1817, 316; founding of trade at, 328, 329; Indian trade at, 332, 333; traders of, 334; American Fur Company at, 338; Jesuit Fathers of, 346; Flathead mission to, 353; Superintendent of Indian Affairs at, 363; Hungarian promoter at, 503; Indian trade near, 518; former mayor of, 518; expressman sent northward from, 538; Hunt's journey to, 539; train from Fort Madison to, in 1812, 539
St. Louis, District of, Spanish land system in, 6; land grants in, 6, 25; reference to, 22
St. Louis, History of, 622
St. Louis, Sanitary Work in, during the Civil War, 132
St. Louis, University of, founding of, 347
St. Louis Law School, dean of, 180
Saint-Luc, 327
St. Paul (Minnesota), 223, 246, 301
St. Paul and Sioux City Railroad, description of, in 1873, 239; journey upon, 246
St. Peter's River, expedition to, 76; floods of, in 1844, 82; description of, 94, 95; dragoon visit to, 96; reference to, 324; need of troops on, 329
St. Peter's (steamer), liquor brought by, 352
St. Petersburg, Hungarian at, 504
St. Stephen, fate of crown of, 491
St. Vrain, land grant to, 24
Ste. Genevieve, Spanish land system at, 6; commissioners at, 19; village of, 23, 26
Sart, Edward B., article by, 277
Salem (Ohio), 372
Salem, Auction Sales in, 464
Salem, Youthful Recollections of, 620
Salem Street, Old, 620
Salem Town Records, 127, 464
Salem Trial, The, 117
Salinian Indians, The Ethnology of the, 119
Saloons, law relative to, 575
Salt springs, 4, 19; seizure of, 24
Salter, Rev. William, mistaken belief of, 330; reference to, 342; tablet to memory of, 471
Salvador, republic of, 272
Sampson, Francis A., article by, 292, 622
San Antonio (Texas), removal of Hungarians to, 488, 502
Sandberg, Harry O., article by, 113
Sanders, Euclid, 469
Sanders, Grace B., article by, 615
Sanders, J. C., work of, 618
Sanders, Jared G., address by, 293
San Diego (California), labor troubles at, 119
San Diego, California, The Climate and Weather of, 612
San Domingo and the United States, 280
Sandusky Forts, The, 466
Sanford, John F. A., trading post of, 70, 71; reference to, 350
San Francisco, founding of, 464
San Francisco, The Initiative, Referendum and Recall in, 607
San Ildefonso, treaty of, 17
Sanitary regulations, enforcement of, 572
Sanitation, standards of, in food-producing establishments, 574
Santa Fé, march to, 72; route of traders to, 259; trip to, 270; renegades from, 356; old palaces at, 471
Santa Fe, Old: A Magazine of History, Archaeology, Genealogy, and Biography, 454
Sante Fe Trail, Along the, 613
Santee Sioux Indians, war-party of, 353, 354
Santiago, sinking of Merrimac at, 248
Santösh, János, scientific collection of, 495
Saratoga (New York), 371
Sáros, parliament of, 481; governor of, 482
Sarpy, Pierre A., trading post of, 344
Saucier, François, land grant to, 13
Sault Ste. Marie (Michigan), fort at, 68
Saunders, C. G., article by, 122; reference to, 469
Savings banks, powers of, 582, 583
Schafer, Joseph, article by, 119
Schapiro, J. Salwyn, paper by, 281, 611
Schenectady (New York), 315
Schmidt, C. F., 298
Schmidt, Louis B., 142
SCHMIDT, LOUIS B., *History of Congressional Elections in Iowa,* 38
Schmidt, Otto L., 627, 631
Schneider, Herman, article by, 116
Scholarship, Partisan, 284
Scholte, Rev. Henry P., town founded by, 228; character of, 234
School, Rural, Efficiency and the, 607
School, The Country, 288
School boards, appointment power of presidents of, 552, 565
School books, uniformity of, 600
School districts, duty of secretary of, 592; indebtedness of, 592
School elections, rules for, 551
School fund, use of, 592
School laws, compilation of, in Iowa, 175,

214, 217, 392, 425, 426; bill for revision of, 365; report of committee on revision of, 439; need of revision of, 441; revision of, in Iowa, 591-593; publication of, 593
School treasurer, 592
Schoolcraft, Henry R., expedition of, 69
Schoolcraft Island, name of, 70
Schools, problem of, in Iowa, 125; defense of, 445; State Superintendent's power over, 552; use of tobacco by pupils of, 573
Schools, Rural, New Ideals in, 457
Schools, The Private, 611
Schools and Text-books, Committee on, 365
Schou, P., article by, 115
Schuchert, Charles, article by, 608
Schwab, John C., address by, 611
Schwartz, Mr., picture by, 245
Schwedtman, Ferdinand C., article by, 451
Science Ethical, 284, 288
Scientists Sustain Organized Labor's Demands, 113
Scioto Company, Side-lights on the, 134
Scisco, L. D., article by, 292
Scotch, Indian descendants of, 263
Scotland, Burns' home in, 248
Scotland, Criminal Procedure in, 275, 450
Scotland, The Influence of the Convention of the Royal Burghs of, 447, 606
Scott, Alexander, 289
Scott, James B., paper by, 112, 610
Scott, Leslie M., 124; article by, 129
Scott, Milton R., book by, 612
Scott, William Alexander, grave of, 467
Scott, Winfield, 71; remarks of, 267
Scott, W. M., article by, 285, 456
Scott, W. R., article by, 606
Scott County, Reconstruction in, 623
Scottish Academy, The Royal, 447
Scottish Historical Review, The, contents of, 112, 274, 448, 606
Scottish History, Four Representative Documents of, 606
Scottish Scholar, A Forgotten, 274
Scugin, Henrietta, 353
Scugin, Mrs., 353
Scugin, Ramsay, 353
Scutari, The Siege of, 449
Seafield Correspondence, The, 112
Seager, Henry R., article by, 115, 273, 609
Sears, Louis M., article by, 275
Seashore, Carl E., book by, 617
Secession, The Maintenance of the Doctrine of, 113
Secession, The Right of, 113
Secession Among Italian Secessionists, 121
Secretary of State, salary of, 555; license to be granted by, 577, 580
Seerley, Homer H., book by, 288
Seevers, William H., appointment of, 117, 196; sketch of life of, 179; work of, on code, 181; code edited by, 206, 208
Selby, Paul, article by, 626
Self-Government, The Spirit of, 276
Seligman, E. R. A., opinion of, 307
Selkirk, Lord, remains of colony of, 263, 265
Senate, State, code revision in, 173-176; proposed code of 1873 in, 189; action of, on report of code commission in 1896, 386-392, 402, 410, 416, 417, 419, 420
Senate, United States, tariff revision methods in, 164; demands of, from Pottawattamie Indians, 340
Senator, United States, election of, in Iowa in 1848, 49; dead-lock over election of, 547; popular election of, 550
Senators, Popular Elections of, 272
Seneca Indians, removal of, 278
Serum laboratory, hog cholera, establishment of, 587
Servians, crimes of, 497
Settlers, early, in Louisiana, 7, 11; regulation of, in Upper Louisiana, 8; land grants to, 8, 9, 11, 12; inducements held out by Spain to, 14; congressional treatment of, in Louisiana, 17, 18, 19; nationality of, in Louisiana, 24; hardships of, 31; character of, in Iowa, 319, 320, 321
Seventeenth Century Diaries and Memoirs, Some, 606
Seventies, A Vacation in the, 283
Seventies, Echoes from the, 285
Seventy, A History of the, 615
Severance, Henry O., article by, 622
Sevier, John, 622
Seville, Old, Archives of, 272
Seward, William H., letter of, to Ujházy, 486, 487
Seward and the Declaration of Paris, 291
Sewers, assessment for cost of, 563
Shahaka, escort of, 526
Shakers, An Expedition Against the, 130
Shakespeare as an Economist, 449
Shambaugh, Benjamin F., *Proceedings of the Mississippi Valley Historical Association* edited by, 109; pamphlet by, 124; book edited by, 124, 136, 617; meeting attended by, 469; first book of new series edited by, 601, 629; address by, 627
Sharpe, Horatio, governorship of, 294
Shaw, Albert, article by, 121, 449, 609
Shaw, Leslie M., finance views of, 290
Shaw, William B., article by, 608
Shawnee Indians, revenge of, 270; expedition against, 602

Shawnee Prophet, visit to town of, 527
Shea, John Gilmary, Bibliography of, 295
Sheffield (Alabama), 301
Shelby, General Jo. O., 128, 465
Shelladay, Stephen B., speech by, 45
Shepard, Walter J., paper by, 281
Shepherd, David, letter to, 269
Shepherd, James, 458
Shequamy, warning given by, 527, 529; report of, 531; son of, 534; death of, 539
Sheriffs, County, laws relative to authority of, 558
Sheriffs' juries, selection of, 597
Sherman, A. Outram, address by, 603
Sherman, P. T., article by, 610
Sherman, Thomas T., article by, 128
Sherman Anti-Trust Act, prosecutions under, 163, 164
Sherman's "Bummers", Iowa troops and, 125
Shermans, The Early English, 128
Sherwood, Henry N., paper by, 110
Shetek Lake, dragoons at, 93
Shilling, David C., article by, 466
Shiloh, battle of, tales of, 460
Shiloh, Opening of the Battle of, 112
Shimek, Bohumil, article by, 455
Shindler, Henry, paper by, 110
Ship-Building Days, The Old, 127
Shipley, William H., sketch of, 617
Shipman, Lemuel, article by, 610
Shippen, Captain Joseph, Military Letters of, 133
Shiras, Oliver P., case before, 429
Shoemaker, Floyd C., article by, 292, 465
Shop, The Open, 448
Short, Julia R., article by, 456
Short ballot, necessity of, 114; adoption of, in Iowa, 552
Shotwell, James T., article by, 625
Shrewsbury, N. J., Historical Notes of the Presbyterian Church of, 462
Siberia, remains of race in, 280
Sickness Insurance, 610
Sidewalks and Sidewalk Ordinances, 286
Siebecker, Robert G., article by, 466
Siegfried, Francis P., article by, 464
Sifton, Clifford, article by, 277
Signalling Systems, Bopp Automatic, 457
Silver, purchase of, for bonds, 155; fall in value of, 157; demand for free coinage of, 157; free coinage of, 158, 159, 161
Simmons, F. W., 628
Simmons, William K., article by, 117
Simms, P. Marion, government by, 458
Sims, George C., book by, 618
Sinclair, G. A., paper by, 112
Singleton, "Pap", the Moses of the Colored Exodus, 117
Siouan family, divisions of, 261
Sioux City, convention at, 122; foreigner visited by deputation from, 241; site of, 332, 333; sewers in, 563
Sioux County, dragoons in, 102; Dutch colony in, 235; appearance of, in 1873, 243-246; early towns of, 246; cession of Indian lands in, 337
Sioux Falls, description of, 78, 100; theft at, 266; site of, 325; Allen on site of, 360
Sioux Indians, military visit to, in 1845, 71; meeting with band of, in 1844, 78, 98; country of, 80; deception of, 80; effect of dragoon expeditions on, 81; march of dragoons to country of, 84; cession by, 85; Delawares killed by, 86, 87; hunting trail of, 93; signs of, 95; lodges of, 99; theft of horses by, 99, 101, 262, 265, 266; character of, 100, 102, 360; expedition of 1845 to, 101; reference to, 258; Wahpeton band of, 261; hostility of, 261, 262; Sisseton band of, 261; British and American presents to, 262; Sumner's treatment of, 262; half-breeds of, 263, 264, 265; liquor sold to, 265; early accounts of, 324; villages of, 325; trade with, 325, 326, 331, 333; British relations with, 328; hunting-grounds of, 328, 338; treaty of 1825 with, 336, 337; land cession by, 338; attacks of, on Pottawattamie Indians, 345, 350, 354; de Smet's mission to, 350, 351; fear of war between Pottawattamie Indians and, 356; Allen's expedition to, 360; falsehood of, 360, 361; missionary to, 444
Sire, Captain, request from, 357; story of, 357, 358
Sisseton Sioux Indians, presents to, 261; council with, 262; excitement of, 262
Skeels, Laura E., article by, 279
Skinner, Alanson, article by, 462
Skunk River, scenes of early day on, 125
Slagle, Christian W., call signed by, 44
Slaughter-houses, regulation of, 572; building of, 574
Slavery, question of extension of, in 1848, 41; Whig opposition to, 53, 58, 62, 65; Whig Party split by question of, 62, 63, 66; democratic opposition to, 151; battle of West against, 152
Slaves, negro, regulation concerning, 8; coming of, to Upper Louisiana, 25
Slaves, The Question of Arming the, 296
"Slicker War", The, and Its Consequences, 465
Slidell's Mission in Mexico, 275
Slocum's Report on Oregon, 129
Small, A. J., article by, 122

Small, Albion W., article by, 274
Smart, Frank L., article by, 286
Smith, Alexander Hale, Biography of, 120, 286, 455, 456
Smith, Benjamin, a Soldier of the Revolution, 130
Smith, Rev. C. C., 470
Smith, Delazon, speech of, 47; candidacy of, 48
Smith, D. E., article by, 613
Smith, Franklin O., book by, 288
Smith, Frederic B., article by, 125; book by, 288
Smith, Harlan I., article by, 453
Smith, Heman C., 135; article by, 456, 615
Smith, Heman Hale, article by, 120
Smith, Henry A. M., article by, 462, 623
Smith, Henry C., 473
Smith, Herbert K., article by, 112
Smith, Inez, article by, 120, 286, 455
Smith, Jacob R., 473
Smith, John T., land claim of, 34
Smith, Joseph, Ancestry of, 120
Smith, Vida E., article by, 456
Smithsonian Miscellaneous Collections, 280, 604
Smoke nuisance, law relative to, 572, 573
Smyrna, Hungarian seized at, 513
Sniffen, Matthew K., article by, 280
Snyder, J. F., article by, 128, 463
Social conditions, discontent with, in 1912, 153
Social Contract, The, 283
Social Insurance, The Problem of, 610
Social Justice, 452
Social Politics in the United States, Outlook for, 449
Social Science, The Present Outlook of, 274
Social Sciences, An Introductory Course to the, 609
Social Theory, The Relation of, to Public Policy, 114
Social Values, 274
Social Welfare, Bureau of, 631
Social Work, The Reorganization of, 452
Socialism, American, The Parting of the Ways in, 279
Socialism, The Philosophical Basis of, 283
Sociological Congress, The Southern, 609
Sociological Society, American, 139
Sociology, The American Journal of, contents of, 115, 274, 449, 609
Soldiers, Iowa, Sherman aided by, 125; thrilling escape of, 289; widows of, 576
Soldiers and Their Deeds, 612
Soldiers' Home, Iowa, tax for, 576; support fund of, 598
Soldiers' Orphans' Home, salary of officers of, 556; tax for, 576
Soldiers' River, crossing of, 79; reference to, 106, 332
Solicitor, City, appointment of, in Iowa, 552
Soliday, George W., article by, 623
Solons Who Graduated, 284
Somers, W. A., article by, 448
Sonnichsen, Albert, article by, 116, 449
Soublette and Campbell, Indian trade of, 341
Soucier, Francis, land claim of, 25
Soulard, Antoine, land claim of, 27, 32, 33
Soulard, Antonio, appointment of, 7; order to, 11; land grants by, 15
South, agriculture in, 149; Presidents from, 49; views of Whigs of, 62
South, Songs and Rhymes from the, 624
South, The Rural Life Problem of the, 275
South America, Early Man in, 275
South American Markets, Transportation and Competition in, 115
South American Newspapers, Early, 113
South Atlantic Quarterly, The, contents of, 112, 275, 450, 604
South Carolina, farmers in, 158; natives of, in Iowa, 319
South Carolina, Some Forgotten Towns in Lower, 623
South Carolina, The Baronies of, 462
South Carolina Historical and Genealogical Magazine, The, contents of, 128, 462, 623
South Dakota, 84; farmers in, 158; Republican victory in, 161; Indian tribes in, 325, 338, 351
Southern Farming, The New Spirit in, 449
Southern States, Tenancy in, 447
Southey, Robert, statement of, 308
Southwest, history and archaeology of, 454
Southwestern Historical Quarterly, The, contents of, 129, 295, 461, 624
Spain, land grants made by, in Louisiana, 3, 6, 11, 12, 13, 16, 18, 36; land policy of, 3-15; reasons for land grants made by, 12, 13, 14; treatment of Indians by, 13; land laws of, 19, 33, 34; cession of Louisiana to, 327
Spalding, H. H., letters of, 624
Spalding, J. D., 48
Spanish, land claims of, 24; complaint of, against English in 1780, 328, 329
Spanish Activities on the Lower Trinity River, 1746-1771, 461
Spanish-American War, place of, in politics, 161; heroism during, 248
Spanish language, use of, 9
Spanish mines, Indian atrocities near, 543
Spanish Mines: An Episode in Primitive American Lead-Mining, 297
Spanish possessions, maps of, in United States, 279

Spanish settlers, documents concerning, 135
Sparkman, Stephen M., article by, 117
Sparks, C. G., appointment of, 439
Sparks, Edwin E., article by, 296
Spaulding, H. L., 437
Spaulding, H. W., 469
Speaker of House of Representatives, influence of, 164, 579
Spears, Dora, article by, 614
Speck, Frank G., article by, 462
Speculation, absence of, 13; rumor of, in Louisiana Purchase, 16; greed of, in Upper Louisiana, 20; prevention of, 224; use and abuse of, 276
Spelling Fifty Years Ago, 455
Spencer, Joab, paper by, 110
Sperlin, O. B., article by, 293
Spillane, Edward, article by, 295
Spincer, Robert, claim of, 23
Spirit Lake, trader's trail to, 325
Spirit Lake Massacre, last survivor of, 300; reference to, 445, 621; pensions for survivors of, 471
Spirit Lake Relief Expedition, pensions for survivors of, 576
Spoils, party of, 45, 46, 52, 54
Spoils System, birth of, 150, 151
Sprague, John F., article by, 118
Springer, Arthur, book by, 109, 124; reference to, 439
Springer, Henry M., sketch of life of, 290
Springfield (Illinois), 371
Springfield (Missouri), charge into, 494
Springfield (Ohio), immigration to, 315; negroes at, 603
Springston, John, article by, 620
Springtime Romances, 456
Sprinkler leakage, insurance against, 584
Squatters, regulation of, 9; dragoon treatment of, 71; removal of, by troops, 258
Squaw Lady, The, 617
Stage, travel by, 484
Stage, American, Some Developments of the, During the Last Fifty Years, 453
Stage driving, early, 459
Stagg, Mrs. Hannah I., article by, 132
Stair, A Step on the, 288
Staly, J. O., appointment of, 139
Stanard, W. G., 468
Standpatter, The, 287
Standpatters, complexion of, 147; party alignment of, 165
Stapp, Emilie B., book by, 617
Star Engraving Company, work of, 423, 435
Starbuck, Edwin D., article by, 446
Starke, Horatio, liquor seized by, 539; letter of, from Fort Madison, 542
State, place of, in history, 307
State banks, powers of, 582, 583
State government, short ballot in, 552
States, free, victory of, 152
States, War Between the, Some Recollection of the, 463, 464
Statistical Association, American, meeting of, 139
Statutes, Iowa, codification of, in 1860, 166; interpretation of, 427
Stearns, Wallace N., article by, 613
Stebbins, H. A., article by, 286, 455, 615
Stecker, H. Dora, article by, 296
Steiner, Bernard C., monograph by, 462; article by, 624
Steiner, Edward A., book by, 617
Stempel, Guido H., article by, 456
Stephens, E. W., article by, 292
Stephens, H. Morse, paper by, 134
Stephenson, N. W., article by, 296
Sterling, Henry, article by, 273
Sterling, M. W., article by, 453
Stevens, Elijah, 352
Stevens, J. L., appointment of, 139
Stevens, R. W., 298
Stevens, Thaddeus, life of, 445
Stevens, Thaddeus, The Life of, 445
Stevens, William S., article by, 609
Stevenson, John J., article by, 272
Stevenson, John R., article by, 462
Stewart, Ethelbert, article by, 477
Stewart, W. M., 44
Stickles, Arndt M., article by, 450
Stiles, C. C., article by, 132; letter of, 214
Stiles, Edward H., article by, 132, 297, 465
Stiles, physician at, 249
Stimson, Frederic J., paper by, 281
Stobart, Mrs. St. Clair, article by, 274
Stock-exchange, European, victims of, 227, 228; functions of, 276
Stock Exchange from Within, The, 276
Stock shippers, law for, 581
Stoddard, Amos, book published by, 5; statement of, 20; reference to, 28
Stokes, Anson P., Jr., article by, 608
Stone, John Y., leadership of, 172; resolution of, 194; reference to, 197; election of, as code commissioner, 366, 370; sketch of life of, 371, 372
Stone, Lucie P., article by, 279
Stone Age, Skull of the, 453
Stone Artifacts, Aboriginal, The Weathering of, 624
Stone Monuments, Great, in History and Geography, 604
Stores, description of, 230
Storm Lake, 240
Story County, oldest pioneer family in, 289
Stout, N. L., call signed by, 50; reference to, 52

Stowe, Lyman B., article by, 608
Straley, W., pamphlet by, 612
Stratton, George M., article by, 114
Streams, meandered, improvement of, 436
Street, A. L. H., article by, 608
Street, Joseph H. D., speech by, 45
Street Hygiene, List of Works on, 112
Streeter, Floyd B., article by, 624
Streets, improvement of, in towns, 563; act relative to safety of, 569
Strong, James C., article by, 130
Strong, John P., 473
Strubberg, Friedrich Armand, 463, 621
Stuart, Rev. M. Cohen, account of visit to Dutch colonies of Iowa by, 221; observations of, 221
Stuckey, Lorin, 136
Student volunteers, tablet to, 472
Sturge, W. Allen, work of, 625
Suetonius and his Biographies, 605
Suffrage, Good Government and the, 281
Suffrage, The Theory of the Nature of the, 281
Suffrage and elections, Iowa legislation on, in 1913, 549-552
Sugar and the Tariff, 278
Sugar works, 24
Sullivan, John B., bill of, 442
Sullivan, John C., boundary line marked by, 343
Sulzberger, Cyrus L., address by, 112
Sumner, Edwin V., expedition of, 71, 81, 93; trail of dragoons under, 93, 94; report of expedition of, 101; dragoon expedition of, 259; sketch of life of, 259; report of expedition by, 259-266; meeting of, with half-breeds of Red River, 263, 264, 265; horse thief captured by, 266
Sumner's, Captain Edwin V., Dragoon Expedition in the Territory of Iowa in the Summer of 1845, introduction to, by JACOB VAN DER ZEE, 258
Sumner, Mary B., article by, 279
Sumter, Fort, 114
Superintendent, County, provision for appointment of, 552, 593; discretion of, 592
Superintendent, State, discretion of, 591; schools approved by, 592; appointment of, 593; authority conferred on, 593
Superior courts, law relating to, 554; clerks of, 555
Supervisors, Board of, provision for, 168; powers and duties of, 169, 186, 551, 557, 573, 586, 587, 588; bonds of, 558; road information to be given to, 567; appointment by, 567; bounties to be paid by, 587
Supervisors' Convention, petition of, 214
Supreme Court, Missouri, land grant cases in, 33, 34
Supreme Court, State, codification of opinions of, 178; judge of, 372; Clerk of, 378; revision of rules of, 418, 424, 435, 440; reporter of, 421, 422; annotations of decisions of, 433; appointment of Clerk of, 552; new member of, 553; work and duties of judges of, 553; salary of Clerk of, 555; case before, 581; question pending in, 597
Supreme Court, United States, O'Reilly's regulations passed upon by, 5, 35, 36; adjudication of land claims by, 15, 33, 34, 35; Spanish land grant cases in, 32, 34, 35; decision of, in case of *Munn v. Illinois,* 156; legislation declared unconstitutional by, 449
Supreme Court and Unconstitutional Legislation, The, 449
Supreme Court Reporter, appointment of, 552
Survey, The, contents of, 116, 279, 451, 607
Surveyor General, Spanish, in Upper Louisiana, 7; plan adopted by, 21
Surveyors, work of, in Upper Louisiana, 7; fees of, 9; demand for, 15
Surveys, character of, in Upper Louisiana, 6, 7; importance of, according to Spanish law, 34; work of making, 317
Susquehanna Indians, missionary to, 444
Sutler, story of, 517
Swan Lake, 89
Swanton, John R., paper by, 110, 624
Sweet, William W., dissertation by, 271
Swem, Earl G., compilation by, 273; reference to, 604
Swift, Eben, article by, 271
"Swift Walker", 313
Swing, David, The Message of, to his Generation, 616
Swisher, B. F., article by, 286
Swiss as Teachers of Democracy, The, 449
Syphilis, law relative to, 573
Syracuse (Ohio), negroes at, 603

Taft, Grace E., article by, 294, 461, 613, 621
Taft, William H., policy of, 164; address by, 276
Talbot, Charles H., paper by, 453
Tama County, Meskwaki Indians in, 136; ghost tales of, 617
Tammany Society in Ohio, The, 626
Tarbell, Ida M., article by, 609
Tariff, need of increase of, 65; revision of, in 1909, 164
Tariff, The Democrats and the, 272

Tariff Board and Wool Legislation, The, 451
Tariff of 1833, The Compromise, 112
Tariff reform, demand for, 147
Taunton (Massachusetts), pageant at, 118
Taussig, F. W., article by, 447, 607
Tax, Not a Single, 608
Tax Administration in Iowa, 122, 136, 137
Tax commission, permanent, need of, 600
Tax Commission, special, creation of, 217; appointment of, 442; report and bill submitted by, 595
Tax Legislation, 1913, 611
Tax levy, increase of, 595
Tax measures of 1912, 115
Taxation, burden of, 45; history of, in Iowa and Ohio, 111; laws relative to, 436; doubling of, in Iowa, 548; vote of, in aid of railroads, 580, 581; recent laws relative to, in Iowa, 595, 596, 597
Taxation laws, report on, 374; reference to, 441; need of new, 442; need of revision of, 595
Taylor, Charles F., article by, 448
Taylor, Graham, article by, 116
Taylor, G. Romeyn, article by, 117
Taylor, Hannis, article by, 117
Taylor, H. C., article by, 451
Taylor, R., article by, 462
Taylor, Waller, 625
Taylor, Zachary, reproach to, 49; praise of, 53; principle of, 53; letter of, to Hungarian exiles, 480; advice of, to Ujházy, 484
Teacher, The "Merit" of a, 453
Teacher in Politics, The College, 118
Teachers, wages of, 591; training of, 592
Teachers, The Need for More and Better Facilities for Training, 455
Teachers in Iowa, The Training of, 286
Teachers' Association, Iowa State, early meetings of, 125
Teachers' Association, Iowa State, Proceedings of the Fifty-Eighth Annual Session of the, contents of, 455
Teachers' certificates, 591
Teachers' College, State, appropriation to, 598; department of government in, 628, 630
Teachers' pensions, 600
Teal, J. N., article by, 117
Tedford, Howard, contract with, 435
Tedford, J. H., article by, 290
Teggart, Frederick J., book edited by, 464
Tehuantepec, canal across isthmus of, 61
Telegraphs, government ownership of, 158
Telephones, government ownership of, 158
Temple, Edward A., will of, 471
Temple, George, tablet to memory of, 471
Temple, M. L., report submitted by, 379, 404; appointment of, 380, 402; reference to, 437
Tennessee, Iowa troops in, 254; emigration from, 316; natives of, in Iowa, 319
Terrell, A. W., article by, 129; death of, 133
Tete des Morts, lead mines at, 526
Teton Sioux Indians, villages of, 325
Texas, annexation of, 41, 65; colonization of, 138; Greenback Party in, 155; farmers in, 158; removal of Hungarians to, 488, 496
Texas, British Archives Concerning, 129, 295, 461, 624
Texas, Independence of, 295
Texas, Repudiation of State Debt in, 129
Texas State Historical Association, meeting of, 467
Thanet, Octave, book by, 288
Thayer, William R., article by, 449
Theology, The Social Origin of, 115
Theophilus, William, appointment of, 431; reference to, 469
Third Party Movement, causes of, 153
Third Regiment Iowa Cavalry, fame of soldier of, 248, 250; Dunlavy's enlistment in, 249; campaigns of, 254; generals captured by, 256
Third Wisconsin Infantry, A Narrative of Service with, 620
Thirty Years Ago, Recollections of, 284
Thomas, E. H., call signed by, 50; appointment of, 51
Thomas, Mrs. Irene, death of, 300
Thomas, John L., article by, 465
Thomas, T. C., article by, 613
Thompson, Allen H., article by, 119, 283
Thompson, Carl D., article by, 607
Thompson, Carl W., monograph by, 454
Thompson, E. N. S., book by, 289
Thompson, Harry, 470
Thompson, Holland, article by, 116
Thompson, J. W., article by, 465
Thompson, Rev., 229; church of, 232; house of, 236
Thompson, Slason, volume by, 608
Thompson, William, nomination of, for Congress, 48; commendation of, 49; charges against, 58, 59, 65; justification of, 59, 60; prospect of reëlection of, 64; votes for, 67
Thomson, W. H., Jr., 299
Thorne, F. C., article by, 113
Thornton, Brother H., Biographical Sketch of, 286
Thorpe, Francis N., address by, 625
Thwaites, Reuben Gold, book edited by, 269, 621; paper by, 468

Tibet, remains of race in, 280
Tiffany, W. C., article by, 278
Tilton, Asa C., article by, 466; reference to, 621
Timber, areas of, in northern Iowa, 77, 79
Timber lands, clearing of, 24
Tin mines, grant of, 16
Tippecanoe, battle of, results of, 527, 523; report of, in Mississippi Valley, 538
Titsworth, Paul E., article by, 451
Tjernagel, T., book by, 289
Tobacco, use of, in public schools, 573, 593
Todd, Arthur J., article by, 606
Todd, Vincent H., article by, 626
Tokay wine, 482
Toledo Mort, lead mines at, 526
Tolerance and Consequence, 114
Tolstoy's Religion, The Modernity of, 452
Torch Press, magazine printed by, 454; book printed by, 612
Torontal, Hungary, revolution in, 497, 498
Toronto, The Municipal Reference Library in, 614
Toronto, University of, publication of, 113
Toronto (Canada), fur traders at, 311
Torrens system, report on, 374
Touro, Judah, the Philanthropist, 610
Tower, Charlemagne, article by, 605, 610
Town government, report on, 375
Towne, Clara H., article by, 450
Towner, H. M., 436
Towns, prosperity of, in Iowa, 227; authority conferred on, 559; powers conferred on, 561; street improvement in, 563; size of, in Iowa, 564; public utilities in, 564, 565; recreation centers in, 565; traffic ordinances in, 570; public safety in, 570, 571; public health in, 572-575; trade and commerce in, 584; cemeteries in, 599
Townsend, G. D., 256
Township, Rural, Social and Economic Survey of a, in Southern Minnesota, 454
Township government, 630
Township Laws of Iowa, publication of, 434
Township offices, nominations for, 551
Townships, donations to, 561; law relative to roads in, 567; cemeteries in, 599
Tracy, Frank B., 456
Trade (Indian), post for, 71; branch of, in Illinois, 310, 311; English control over, 328, 329, 332; operations of, in western Iowa, 333, 334, 341; competition of Astors for, 338; government factories for, 517, 518, 545; British goods for, 518, 519; American goods for, 519; method of, 520; licenses needed for, 525; sketch of, at lead mines, 526, 527, 528; Blondeau's operations in, 540
Trade, laws relative to, in Iowa, 584-586
Trade Unionism, Constructive, 606
Trade Unionist, Industrial Peace from the Standpoint of a, 116
Trade Unions, American, Admission to, 111
Trade Unions, American, The Government of, 447
Trade Unions and Trade Disputes in English Law, 115
Trader's Point, site of, 344; subagency at, 345; Indian trade at, 361; ferry at, 362
Trader's trail, record of, in early Iowa, 325
Traders, Indian, land grants to, 8; lack of encouragement to, 13; activity of, in Iowa country, 325, 326, 328, 329, 330; list of, 342; liquor sold to Indians by, 351, 352, 356, 357; practice of, 520
Trading posts, report of, in Big Sioux Valley, 80, 98, 102, 361; absence of, in Iowa country, 326; site of, 517
Trail, finding of, 93, 107, 263; meeting with, by dragoons, 94; trader's, in early Iowa, 325
Trains, passenger, regulation of, 581
Trans-Allegheny Region, The First Explorations of the, by the Virginians, review of, 268
Transportation, charges of, 156
Travel in the Colonies and Early Days of the Republic, 118
Traveling men's vote, State, 600
Travels, American, in West, 271
Travels, 615
Traverse des Sioux (Minnesota), arrest at, 101; dragoons at, 260, 262, 265; horse thief arrested at, 266
Treasure Mountain; or, the Young Prospectors, 617
Treasurer, City, duty of, 561
Treasurer, County, use of county funds by, 499, 500; salary of, 557
Treasurer, State, salary of, 555
Treasurer, United States, deposits with, 583
Treasury, State, money reverting to, 596
Treaty-Making Power of the United States, 113
Trees, growth of, in Iowa, 225; care of, in cities, 561, 562
Trempealeau, Vernon and Crawford County Notes, 295
Trent affair, letters on, 117
Trent Affair, The, 294
Trespass, 594
Trewin, James H., codification urged by, 365, 366; resolution of, 387, 417, 418; appointment of, 388, 409, 414, 416, 420, 431, 434; bill of, 392, 418, 432, 433; sketch of life of, 420; motion of, 433; work of, 440

Trial Balance, Our National, 279
Trials, Recent, An Interpretation of the, 276
Tribes, Five Civilized, Some Observations of Conditions in the, 280
Tribus, L. L., article by, 286
Tridon, André, article by, 116
Trimble, William J., article by, 613
Trowbridge, Arthur C., book by, 458
Trudeau, Jean Baptiste, Journal of, 131
Trudeau, Zenon, land grants by, 15, 33; concession by, 22; orders of, 26
Trust companies, powers of, 582
Trustees, Township, duty of, 568, 587
Trusts, western agitation about, 147; nature of, 152; political issue of, 161; Roosevelt's campaign against, 162, 163; regulation of, 164; first of, in America, 314, 338; reference to, 600
Trusts, How Canada Regulates, 120
Trusts, The People and the — The Middleman, 116
Tryon, James L., article by, 277
Tuberculosis, State Sanitorium for Treatment of, tax for, 576; provision for patients at, 578
Tucker, Frank, article by, 452
Tudor Period, English commerce in, 272
Tuition, law relative to payment of, 591
Turkey, Hungarians in, 479, 482, 491; experience of Hungarian in, 513, 514
Turkey, The Balkan Union Against, 116
Turkeys, tracks of, 534, 535
Turkish wheat, 226
Turner, Dr., operation by, 260
Turner, Edward R., article by, 133
Turner, Frederick J., book by, 281
Turtle Lake, description of, 90
Twelfth Iowa Volunteer Infantry, student members of, 472, 473
Twenty Years Ago, 456
Twigge, R. W., article by, 112
Twin Lakes, 107
Twitchell, Ralph E., magazine edited by, 454; monograph by, 454; reference to, 469
Tyler, Alice S., article by, 448
Tyler, John, letter of, 623
Tyler, Lorin S., article by, 297
Tyler, Lyon G., article by, 448; reference to, 468
Tyler Photographs of Iowa Military Men, The, 297
Typewriting, Commercial Article, 124

Ujházy, Ilona, 489; marriage of, 496
Ujházy, Ladislaus, Taylor's letter to, 480; sketch of life of, 481, 482; deference paid to, 483; Fish's letter to, 483, 484; Cass's letter to, 484; Taylor's advice to, 484; land in Iowa selected by, 485, 487; Fillmore's letter to, 485, 486; Seward's letter to, 486, 487; removal of, to Texas, 488; life and character of, 488; protest of, 489; suicide of, 489; burial of, 489; grandson of, 496; fear of, in Austria, 512, 513; dreams of, 516
Ujházy, Laszlo, estate of, 489
Underground Railroad, A Souvenir of the Days of the, 279
Underground Railroad in Pennsylvania, The, 133
Unemployment, Insurance Against, 610
Uniform Legislation, promotion of, in Iowa, 370; report of Iowa commissioners to meeting on, 403
Union Chapel, The Echo of, 287
Union County, Mormons in, 361
Union Labor Party, birth of, 155
Union Pacific Merger, The Decision of the, 275
Unitarian Association, American, Department of Religious Education of the, pamphlet by, 446
United States, land policy of, 13, 14; Mexican territory ceded to, 41; democratic government in, 151, 321, 322; effect of industrial development in, 152, 153; scenery of, 227; incursions of half-breeds into, from Canada, 263, 264; Hungarian exiles in, 480; Kossuth's representative in, 482, 483; dispute between Austria and, 514; factory system of, for Indian trade, 517, 518, 545
United States, A Comparison with the, 277
United States, Student's History of, 457
United States: The People's Charter, The, 462
United States and Canada in Their Hundred Years of Peace, The, 277
Universities, History of, 453
Universities, Internationalism Among, 604
Universities in a Democracy, Historic, 607
University, The "Merit" of a Teacher or a, 453
University and Its Members, Bibliography of the Publications of the, 614
University Extension and Commonwealth Service, 119
University of Iowa, State, former buildings of, 125; Law Department of, 180; teacher at, 421; bulletin of, 455, 614; College of Homeopathic Medicine of, 593; appropriation to, 598; new extension bureaus of, 631
University of Iowa, State, Contributions from the Physical Laboratory of the, supplement of, 120

University of the Future, The, 121
University to the State, The Relation of the, 282
Upham, Warren, compilation by, 269
Upper Iowa University, tablet to student volunteers of, 472, 473
Upson, Lent D., article by, 119
Urban Utilities in Iowa, Regulation of, 123, 136
Usher, Roland G., article by, 132
Utah, Republican victory in, 161; early life in, 286
Utica (New York), 315
Utilities, public, legislation relative to, 562-564; purchase of, by municipalities, 564, 565; regulation of, in Iowa, 580; reference to, 600
Utilities, Public, 611
Utilities, Urban, in Iowa, Regulation of, 123, 136

Vagrants, punishment of, 595
Valentine, E. V., 468
Vallé, Mr., land grant to, 24
Vallet, John, land claim of, 25
Valley, Great, True Tales of the, editor of, 601, 629
Van Antwerp, A. L., article by, 127
Van Antwerp, W. C., book by, 276
Van Asch, Mrs., guests at home of, 229
Vanbibber Tavern, 292
Van Buren County, Whigs of, 44, 45; Free Soilers in, 67; Ioway village in, 328
Van Buren's Maryland Correspondents, 624
Van der Weyde, William M., article by, 620
Van der Zee, Jacob, facts in life of, 142; writings of, 143; research work of, 470; reference to, 474; some source materials on Old Fort Madison collected and edited by, 517; appointment of, 628
VAN DER ZEE, JACOB, *An Eminent Foreigner's Visit to the Dutch Colonies of Iowa in 1873,* 221; *Episodes in the Early History of the Western Iowa Country,* 323
Van Duyn, A. C., pistols presented by, 254
Van Dyke, Henry, address by, 462
Van Gilder, S. J., 365
Van Hise, Charles R., 274; address delivered by, 611
Van Meter, W. L., 472
Van Oosterhout, P. D., 469
Van Raalte, Rev. A. S., character of, 234
Van Rensselaer, Martha, article by, 609
Varga, Francis, removal of, to Iowa, 496; ancestry of, 497; early life of, 497; early law case of, 498; flight of, 499; manliness of, 499; incident in career of, as county treasurer, 500; scholarship of, 501; death of, 501
Varga, Stephen, 134, 135, 497; visit of, to Hungary, 501
Vasques, Barony, 544, 545
Vattel, The Authority of, 611
Vaudreuil, letter of, 326
Vaughn, Earnest V., article by, 272
Vaux, George, Jr., article by, 280
Vegetables, sale of, 585
Veluwe (Holland), descriptions of, 232
Verde River, Upper, Antiquities of the, and Walnut Creek Valleys, Arizona, 614
Verhaegen, Father, 346
Vermilion River, Indians of, 337; de Smet's journey to, 351
Vermont, emigration from, 315; natives of, in Michigan, 319
Verreydt, Father Felix, mission of, 346, 347, 348, 354, 355; work of, for Nicollet, 351
Veterans, provision for, 576
Veterans' Home Coming, Iowa, 599
Veterinarians, duty of, 587
Veterinary Association and Reunion at Ames, Iowa, Silver Anniversary of the, 285
Veto power, use of, by president, 53, 60
Viceroy, Spanish, 613
Victoria, Queen, 459
Viele, Philip, speech by, 45
Vienna, 493
Vignaud, Henry, article by, 465
Viking, John O., article by, 283
Világos (Hungary), 498
Village á Robert, village claim of, 26
Villages, land claims of, 23, 26; elections in, 551
Villard, Fanny G., article by, 278
Villars, Mr., land grant to, 24
Vincennes, surrender of, 602
Vincent, J. W., article by, 465
Virgil, Aeneid of, 495, 501
Virginia, aristocracy of, 151; natives of, in Iowa, 319
Virginia, History of Agriculture in, 273
Virginia, The First Pioneer Families of, 463
Virginia, The Free Negro in, 1619-1875, 605
Virginia and the Independence of Texas, 295
Virginia Historical Society, meeting of, 468
Virginia in 1666-1667, 292
Virginia in 1676, and 1665-1666, 129
Virginia Magazine of History and Biography, The, contents of, 129, 292, 464
Virginia Mountaineers, The, 604
Virginia State Library, bulletin of, 273
Virginia State Library, A List of Portraits and Pieces of Statuary in the, 604

Virginia State Library, Ninth Annual Report of Library Board of the, contents of, 604
Virginia's Position in 1861, 114
Virginians, adventures of, in western country, 268
Virtue, G. O., article by, 453
Vitcos, the Lost Inca Capital, 127
Vocational Education, Culture in, 285
Volunteers, Iowa, story of, 125
Von Achen, Letitia C., marriage of, 249
Von Coelln, Carl W., article by, 290
Von Coelln, Carl Wilhelm, 455
Von Graffenried, Christoph, and the Founding of New Bern, N. C., 626
Voters, registration of, 551
Voyageurs, French, presence of, in Iowa country, 325, 326; title of, 350; reference to, 352

Wabash Valley, immigration to, 314
Wacondaw Prairie, 520
Wade, Herbert T., article by, 278, 608
Wade, Martin J., 436
Wage, Minimum, The Theory of the, 273
Wage, Minimum, in Australia, Judicial Interpretation of the, 609
Wage, The Minimum, 606
Wage, What is the Minimum, 117
Wage-Earner and the Prison-Worker, 452
Wage-Earners' Insurance, Systems of, 610
Wage standards, 609
Wages, law relative to, 590
Wahpeton Sioux Indians, message to, 261
Walcott, E. A., article by, 607
Walker, Mrs. E. S., article by, 464
Walker, Nellie, statue ordered from, 139
Wall Street as our American Monte Carlo, 277
Walla Walla and Missoula, 130
Wallace, Henry, article by, 286
Wallace, W. H., 44
Wallace, W. Stewart, 113; book edited by, 606
Walled City, The, 458
Waller, Herbert H., 136
Wallis, Lomis, article by, 609
Walters, Amanda, 472
Walters, Mrs. Angelina, 472
Wambaugh, Eugene, article by, 115
Wapello County, Whigs of, 44, 45; Democrats of, 47, 50; Free Soilers in, 67; Indian agency in, 539
War, hell of, 125; reminiscences of, 290; place of, in history, 307, 321; truceless, 460
War, How to Root out the Causes of, 610
War, Washington, Jefferson and Franklin on, 448
War of 1812, effect of, in West, 334; history of, in West, 533-538, 542-545
War Paper 88, contents of, 112
War songs of fifty years ago, 617
War tableaus, three, 460
Warber, G. P., monograph by, 454
Wardens, salaries of, 555
Warehouse receipts, law on, 441
Warfield, Edwin, election of, 467
Warner, Daniel D., 473
Warner, William W., 473
Warren, J. L., appointment of, 439
Wars, foreign, American interference in, 486
Washburn, Charles G., address by, 607
Washington, Booker T., article by, 609
Washington, George, mother of, 133; book on, 271; reference to, 358; agreement of, 602
Washington, General, The Creed of, 614
Washington, In the Defenses of, 449
Washington, Jefferson and Franklin on War, 448
Washington, Pittsburgh and Inland Navigation, 296
Washington, Proposed Amendments to the State Constitution of, 293
Washington, Republican victory in, 161
Washington County, Whigs in, 67; Free Soilers in, 67; pioneer of, 290
Washington Historical Quarterly, The, contents of, 130, 392, 463, 623
Washington Manuscript of the Four Gospels, The, 272
Washington Territory Fifty Years Ago, 463
Washington Utility Commission Overruled, 614
Washington's Administrations, Political Factions in, 613
Water-works, municipal, 202
Waterloo, First Congregational Church of, 139; smoke nuisance in, 573
Waterloo Evening Courier, articles in, 299
Waterloo's Pioneers, Reminiscences of Some of, 299
Waterman, H. L., appointment of, 389, 402
Waterway Legislation — Past and Present, 117
Waterways, inland, development of, 117; navigable, trade and commerce on, in Iowa, 584
Waterways, National: A Magazine of Transportation, contents of, 117
Waterways Commission, The Final Report of the National, 115
Watkins, Albert, book by, 612
Watrous, C. L., boosting by, 125
Watson, Mr., murder of, 262
Watters, H. B., motion of, 384

Waugh, F. A., 300
Wayne, Anthony, papers of, 133
Wayne County, first reaper in, 290
Wealdon, Isaac H., article by, 623
Wealth, warfare against, 163
Weapons, concealed, carrying of, 571
Weaver, Mrs. Clara V., death of, 471
Weaver, Harry O., appointment of, 370, 379
Weaver, James B., nomination of, 155, 158
Weaver, James B., Jr., paper by, 134; address by, 300
Weaver, Silas M., book by, 124; reference to, 436
Webber, Mabel L., article by, 128, 462, 623
Weber, Jessie P., 627, 631
Webster, Daniel, Ever Say This?, Did, 623
Webster, John L., paper by, 110
Webster City, Lincoln monument at, 459
Webster County, Indians and dragoons in, 86; main events in history of, 445
Webster County, Iowa, History of Fort Dodge and, 444, 458
Weeds, noxious, law relative to, 586, 587
Weeks, E. W., appointment of, 439
Weights and Measures, Superintendent of, abolition of office of, 585; Inspector of, creation of office of, 585
Weinstock, Harris, address by, 119
Weir, Allen, article by, 293
Weir, William, 293
Weller, L. H., sketch of life of, 125
Welliver, Judson C., article by, 608
Wells, George F., article by, 279
Wells, Guy, 48; appointment of, 49
Wells-Barnett, Ida B., article by, 279
Wells and Subsoil Waters, 457
Wentworth, E. M., address by, 134
Wentzler, Charles C., article by, 459
Wessell, Morris J., article by, 117
West, A. M., nomination of, 155
West, Elizabeth H., work of, 138
West, Francis R., sketch of life of, 618
West, Harold E., article by, 451
West, John P., appointment of, 190
West, Mr., 174
West, Oswald, address by, 276; article by, 452
West, disregard of, in Congress in 1848, 52, 53, 58; advocate of, 65; democracy in, 147, 148, 321; Federalist Party's opposition to growth of, 150; democratic influence of, in 1824 and 1828, 150; anti-slavery democrats in, 151; battle with slavery won in, 152; third party strength in, 153, 155, 158, 159, 164; development of, since Civil War, 155; agitation of silver miners in, 160; hard times in, 160; Bryan's campaigns in, 160, 161; Progressive Party strength in, 165; scenery in, 227; life of pioneers of, 235; youthful community of, 236; service of dragoons in, 260; early adventures of Virginians in, 268; travels in, 271; Potomac route to, 291; fur trade of, 311; immigration to, 314, 315, 316; early letter about, 315; history of occupation of, 321; effect of democracy in, 322; Astors in, 338; mission of Jesuits in, 346, 348, 353, 355; War of 1812 in, 543; American Revolution in, 602; early commerce in, 622
West, Constructing a Navigation System in the, 296
West: Its Place in American History, The, 110
West, The Early Movement of New England into the, 134
West, The Mighty River of the, 117
West During the Last Years of the Revolution, The, 468
West Indian Negro Question, The, 275
West Indies, The Danish, and American Ownership, 450
West Virginia Coal Mines, Civil War in the, 451
Western Border Conditions, Some, in the 50's and 60's, 110
Western Civilization, The Historical Background of, 456
Western Engineer (steamer), journey of, 335
Western Jurist, The, suggestions of, 170
Western Reserve, New England and the, 134
Western Reserve, The, in the Anti-Slavery Movement, 110
Western Rivers, The Future of Navigation on Our, 296
Westport (Missouri), 353
Westward expansion, part of Fort Madison in, 619
Weyl, Walter E., paper by, 281
Wharves, 563
Wheeler, Everett P., article by, 116
Whig Congressional Committee, call of, in 1848, 43, 50
Whig Convention, First District, call for, 43; meeting of, 44; platform adopted by, 45, 46; Second District, call for, 50; meeting of, 51; platform of, 52-54
Whig Party, strength of, in Iowa in 1848, 39, 67; principles advocated by, 41, 45, 52-54, 65; activities of, in Congressional Districts, 43, 50; congressional nominees of, 44, 52; principles of factions of, 62; cause of division of, 63; Democratic taunt of, 63; facts about, 149

Whipple, W. P., appointment of, 434
Whiskey, Indian love of, 533; seizure of, by troops, 539
Whiskey Creek, 105
Whitcomb, Seldon L., book by, 458
White, Edgar, article by, 455
White, George C., 136
White, James, adventures of, 282
White Cloud, Chief, 347
White Earth, The Lesson of, 280
White Pole Route, law relative to, 569
White Salmon, Early Days at, and the Dalles, 463
Whiting, Albe B., paper by, 110
Whiting, Charles E., 217
Whitman, Marcus, supporter of, 130; journey of, 341; life of, 444
Whitman Controversy, The, 130
Whitman Legend, John Fiske's Change of Attitude on the, 129
Whitney, Asa: Father of Pacific Railroads, 468
Whittier, John G., 152
Wicker, G. R., article by, 118
Wickersham, George W., article by, 462
Wickersham, J. A., article by, 283
Wickett, S. Morley, article by, 277
Widows, provision for, 576
Wife, torts of, 186
Wilcox, Delos F., article by, 607
Wild, Helen T., article by, 620
Wild, Laura H., article by, 607
Wild Horse Creek, 22
Wild Life, Our Vanishing, 287, 618
Wildman, Murray S., paper by, 134
Wile, Ira S., article by, 117
Wiley, Richard T., article by, 296
Wilgus, Horace L., statement of, 425
Wilhelmina, Queen, 227
Wilkes-barré (Pennsylvania), 129
Wilkes's *History of Oregon,* 293
Willard, James F., article by, 452
Willard, Mr., train of, 539; fears expressed for, 543
Willcox, D. Hamilton, article by, 275
Willcox, Walter F., article by, 449
Williams, Edward H., book by, 458
Williams, Eugene E., article by, 130
Williams, Ira A., article by, 289
Williams, Mrs. Jennie L., book by, 125
Williams, Samuel W., article by, 626
Williams, Sergeant, bear shot by, 108
Williams' Adventures in Colorado, Ezekiel, 622
Williamson, Mrs. M. Burton, article by, 130
Willis, Bailey, 275
Willis, Blake V., 470
Willis, H. Parker, article by, 115, 280
Willoughby, Wm. F., article by, 610
Wills, lost, proof of, 419
Wilmington (steamer), 346; cargo of, 351
Wilmot proviso, principle of, 41, 54; supporters of, 62; opposition to, 65
Wilson, Charles J., appointment of, 431
Wilson, Colonel, 262
Wilson, George, 44
Wilson, George G., article by, 610
Wilson, James, speech of, 197; article by, 274, 448
Wilson, Lillian M., facts about, 632
WILSON, LILLIAN MAY, *Some Hungarian Patriots in Iowa,* 479
Wilson, Doctor Peter, 294
Wilson, "Tama Jim", 289
Wilson, Thomas S., career of, 297
Wilson, Woodrow, address by, 615
Wilson's, Woodrow, Ideas of the Presidency, 116
Wilson's Cabinet, President, 449
Wilson's Creek, What I Saw at, 292
Wilson's Message to the Indians, President, 615
Wilton Academy, 372
Wine Creek, iron mine on, 16
Winnebago Indians, fort among, 70; reservation of, 85; home of, 258; result of removal of, from Illinois, 313; depredations of, 330; hostility of, in 1812, 518; defeat of, 527; Hunt's escape from, in 1812, 528-533, 542; war of, against Americans, 532, 540; Hunt's buildings fired by, 534; Saginash pursued by, 535; report of defeat of, 538; Pryor's escape from, 540, 541; reports of atrocities of, at lead mines, 542, 543; attack of, on Fort Madison, 543-545
Winship, George P., article by, 113
Winslow, General, coming of, to Iowa, 459
Winslow, Horace S., sketch of life of, 370, 371
Winston, James E., article by, 295, 463
Winter, Rev., 229; statement of, 234
Winter Quarters (Nebraska), Mormons at, 362
Wirt, William, case of, 33
Wisconsin, La Follette's work in, 164, 165; foreigner's visit to, 221; Indian cession in, 339; Granger movement in, 602
Wisconsin, Constructive Investigation and the Industrial Commission of, 279
Wisconsin, Coöperation in, 449
Wisconsin, State Historical Society of, publication of, 269
Wisconsin, State Historical Society of, Proceedings of the, contents of, 466
Wisconsin, State Insurance in, 116
Wisconsin, Territory of, statutes of, 212; complaint of Indians of, 342

Wisconsin, University of, Bulletin of the, 453
Wisconsin, Work and Citizenship in, 451
Wisconsin Academy of Sciences, Arts, and Letters, Transactions of the, contents of, 282
Wisconsin Archaeologist, contents of, 295
Wisconsin Collection, A, 461
Wisconsin country, hostile Indians in, 326
Wisconsin History Commission, publication by, 620; reprints published by, 621
Wisconsin Industrial Commission Works, How the, 273
Wisconsin Library Commission, Legislative Reference Department of, publication of, 453; library school of, course offered by, 631
Wisconsin Territory, The Supreme Court of, 466
Wisconsin War Governors, Civil War Messages and Proclamations of, 621
Wislizenus, Frederick A., book by, 270; sketch of life of, 270, 271
Wissler, Clark, handbook by, 119; article by, 283
Withrow, Thomas F., suggestions of, as to code revision, 169-172
Withrow, Winfield S., appointment of, 553
Witmer, W. W., article by, 459
Witnesses, code section on, 187; compulsory attendance of, 554; act relative to, 580
Wolfe, F. E., article by, 111
Wolves, bounty on, 587
Woman factory inspector, 591
Woman of Tomorrow, The, 449
Woman Suffrage, provision for, in Iowa, 549
Woman's Handicap in Efficiency, A, 609
Woman's Suffrage in the Pacific Coast Cities, The Actual Operation of, 114
Women, American, observation on, 234
Women, Labor Laws for, 279
Women, The Legal and Political Status of, in United States, 125
Women and Local Government in the United Kingdom, 278
Women and Prison Labor, 452
Women and War, 274
Women in Trade Unions in San Francisco, 452
Wood, Abraham, career of, 268
Wood, E. F., 627
Wood, Philo R., address by, 473
Woodburn, James A., book by, 445
Woodbury County, early visit to, 79; dragoons in, 105; district court of, 555
Wooden Monuments of the Northwest Coast Indians, 453
Woodhouse, J. S., book by, 458
Woodruff, Clinton R., article by, 277
Woodruff, George, article by, 455
Woodward, S. M., 136
Woodward, town of, 85
Woody, Frank H., article by, 130
Woolsey, Theodore S., article by, 449
Woolson, Judge, case before, 429
Woolson, T. W., 174
Work, John, Journal of, 624
Work Accident Indemnity in Iowa, 123, 136
Work Accident Indemnity in Iowa, History of, 123, 135
Workers, Independent, of the World, meetings of, 119
Workingmen's compensation, articles on, 282
Workmen, wages of, 590
Workmen's Compensation, 284, 611
Workmen's Compensation, The Ohio Law for, 608
Workmen's Compensation Act, The Washington, and its Critics, 451
Workmen's Compensation Bill, Employer's Liability and, terms of, 588-590
Works, Lewis R., article by, 277
World Peace, The Opportunity and Duty of the Press in Relation to, 446
World Peace Foundation, pamphlets by, 448, 604
World Power, The Birth of a, 465
Wounded, The, 274
Wren, Christopher, article by, 130
Wright, Chester W., article by, 451
Wright, F. E., 275
Wright, Florence B., article by, 294
Wright, Frederick B., article by, 127
Wright, George F., article by, 294, 626; reference to, 627
Wright, George G., candidacy of, for Congress, 44; election of, to Supreme Court, 47; life of, 132
Wright, George W., call signed by, 44; reference to, 113
Wright, L. D., article by, 456
Wright, Robert M., 437
Wright, S. A., article by, 465
Wrong, George M., book edited by, 606
Wyer, Malcolm G., bibliography compiled by, 614
Wylie, Rev. D. W., 136
Wyoming, Republican victory in, 161
Wyoming, Echoes of the Massacre of, 130
Wyoming Historical and Geological Society, Proceedings and Collections of the, contents of, 129

Yale College, Biographical Sketches of the Graduates of, 276, 604

Yale Review, articles in, 112, 272, 449, 607
Yankton Sioux Indians, villages of, 325; trade with, 333; treaty with, 336, 337, 351; visit of, to Jesuits in Iowa, 353
Yates, Henry W., article by, 121
Year Round, All the, 123
Yellow Medicine River, 94
Yellowstone (steamer), journey of, 338, 339
Yeoman, John D., article by, 284
Yorkshire Coast, The Lost Towns of the, 294
Yost, J. F., 300
Young, Brigham, Mormons under, 72
Young, C. M., general captured by, 256
Young, Frances P., article by, 463
Young, Lafayette, code bound by, 423
Youngman, Anna, article by, 275
Youngs, Benj. S., article by, 130
Yuma Indians, expedition against, 463

Zágony, Charles, charge of, 494
Zeller, E. R., paper by, 298
Zeuch, Herman J., 470
Zion's Camp, or the Expedition to Missouri: Its Purpose, 286
Zurich, University of, 270

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